
ENGROSSED HOUSE BILL 2831

State of Washington

61st Legislature

2010 Regular Session

By Representatives Simpson, Bailey, Kirby, Kelley, Chase, Wallace, Rodne, and Nelson; by request of Department of Financial Institutions

Read first time 01/14/10. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to state-chartered commercial banks, trust
2 companies, savings banks, and their holding companies; amending RCW
3 30.04.010, 30.04.020, 30.04.030, 30.04.050, 30.04.060, 30.04.070,
4 30.04.075, 30.04.111, 30.04.127, 30.04.215, 30.04.217, 30.04.450,
5 30.04.455, 30.04.460, 30.04.470, 30.04.475, 30.12.040, 30.12.042,
6 30.12.044, 30.12.047, 30.12.070, 30.12.090, 30.12.100, 30.12.190,
7 30.12.240, 30.44.010, 30.44.020, 30.44.030, 30.44.100, 30.44.110,
8 30.44.160, 30.44.270, 30.46.010, 32.04.020, 32.04.070, 32.04.100,
9 32.04.110, 32.04.211, 32.04.220, 32.04.250, 32.04.260, 32.04.270,
10 32.04.290, 32.08.153, 32.16.090, 32.16.093, 32.16.095, 32.16.097,
11 32.16.140, 32.20.285, 32.24.040, 32.24.050, 32.24.060, 32.24.070,
12 32.24.080, and 32.24.090; adding a new section to chapter 23B.01 RCW;
13 adding a new section to chapter 23B.14 RCW; adding a new section to
14 chapter 30.12 RCW; adding a new section to chapter 32.04 RCW; adding a
15 new section to chapter 32.08 RCW; adding a new section to chapter 32.16
16 RCW; adding a new section to chapter 32.24 RCW; adding a new chapter to
17 Title 32 RCW; repealing RCW 30.04.310; prescribing penalties; and
18 declaring an emergency.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

1 NEW SECTION. **Sec. 1.** A new section is added to chapter 23B.01 RCW
2 to read as follows:

3 For those corporations that have a certificate of authority, are
4 applying for, or intend to apply for a certificate of authority from
5 the department of financial institutions as a bank, trust company, or
6 the holding company thereof, under Title 30 RCW, or as a savings bank
7 or holding company thereof, under Title 32 RCW, or for any other
8 corporation or other entity which is or purports to be a bank, savings
9 bank, savings and loan association, trust company, industrial loan
10 bank, credit union, bank holding company, financial services holding
11 company, or savings and loan holding company, whenever under this
12 chapter corporate records are required to be filed with the secretary
13 of state, the records shall be filed with the department of financial
14 institutions.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 23B.14 RCW
16 to read as follows:

17 For any corporation or other entity that has, is applying for, or
18 intends to apply for a certificate of authority from the department of
19 financial institutions as a bank, trust company, or the holding company
20 thereof, under Title 30 RCW, or as a savings bank or holding company
21 thereof, under Title 32 RCW, or for any other corporation or other
22 entity which is or purports to be a bank, savings bank, savings and
23 loan association, trust company, industrial loan bank, credit union,
24 bank holding company, financial holding company, or savings and loan
25 holding company, whenever under this chapter corporate records are
26 required to be filed with the secretary of state, the records shall be
27 filed with the department of financial institutions.

28 **Sec. 3.** RCW 30.04.010 and 1997 c 101 s 3 are each amended to read
29 as follows:

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

32 (1) (~~("Banking" shall include the soliciting, receiving or~~
33 ~~accepting of money or its equivalent on deposit as a regular~~
34 ~~business.)) "Adequately capitalized," "critically undercapitalized,"
35 "significantly undercapitalized," "undercapitalized," and "well-
36 capitalized," respectively, have meanings consistent with the~~

1 definitions these same terms have under the prompt corrective action
2 provisions of the federal deposit insurance act, 12 U.S.C. Sec. 1831o,
3 and applicable enabling rules of the federal deposit insurance
4 corporation.

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

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

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

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

22 ~~((4))~~ (6) "Department" means the Washington state department of
23 financial institutions.

24 (7) "Director" means the director of the department.

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

27 (9) "Foreign bank" and "foreign banker" includes:

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

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

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

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

3 (10) "Holding company" means a bank holding company or financial
4 holding company of a bank organized under chapter 30.08 RCW or
5 converted to a state bank under chapter 30.49 RCW, or a holding company
6 of a trust company authorized to do business under this title.

7 (11) "Person" includes a firm, association, partnership, or
8 corporation, or the plural thereof, whether resident, nonresident,
9 citizen or not.

10 (12) The term "trust business" shall include the business of doing
11 any or all of the things specified in RCW 30.08.150 (2), (3), (4), (5),
12 (6), (7), (8), (9), (10) and (11).

13 ~~((5))~~ (13) "Trust company," unless a different meaning appears
14 from the context, means any corporation (organized under the laws of
15 this state engaged), other than a bank, savings bank or savings
16 association, organized and chartered as a trust company under this
17 title for the purpose of engaging in trust business.

18 ~~((6) "Person" unless a different meaning appears from the context,~~
19 ~~shall include a firm, association, partnership or corporation, or the~~
20 ~~plural thereof, whether resident, nonresident, citizen or not.~~

21 ~~(7) "Director" means the director of financial institutions.~~

22 ~~(8) "Foreign bank" and "foreign banker" shall include:~~

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

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

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

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

35 **Sec. 4.** RCW 30.04.020 and 1994 c 256 s 32 are each amended to read
36 as follows:

37 (1) The name of every bank shall contain the word "bank" and the

1 name of every trust company shall contain the word "trust," or the word
2 "bank." Except as provided in RCW 33.08.030 or as otherwise authorized
3 by this section or approved by the director, ~~((no person except:~~
4 ~~(a))~~ only a national bank~~((+~~
5 ~~(b) A))~~ , federal savings bank, a bank or trust company authorized
6 by ~~((the laws of this state;~~
7 ~~(c) A corporation established under RCW 31.30.010;~~
8 ~~(d) A))~~ this title, savings bank under Title 32 RCW, bank holding
9 company or financial holding company, a holding company authorized by
10 this title or Title 32 RCW, or a foreign or alien corporation or other
11 legal person authorized by this title ~~((se))~~ to do so, shall:

12 ~~((+i))~~ (a) Use as a part of his or its name or other business
13 designation, as a prominent syllable within a word comprising all or a
14 portion of its name or other business designation, or in any manner as
15 if connected with his or its business or place of business any of the
16 following words or the plural thereof, to wit: "bank," "banking,"
17 "banker," "bancorporation," "bancorp," or "trust((-))," or any foreign
18 language designations thereof, including, by way of example, "banco" or
19 "banque."

20 ~~((+ii))~~ (b) Use any sign ~~((at or about his or its place of~~
21 business or use or circulate any advertisement,), logo, or marketing
22 message, in any media, or use any letterhead, billhead, note, receipt,
23 certificate, blank, form, or any written ~~((or))~~, printed ~~((or part~~
24 written and part printed paper)), electronic or internet-based
25 instrument or ~~((article))~~ material representation whatsoever, directly
26 or indirectly indicating that the business of such person is that of a
27 bank or trust company.

28 (2) A foreign corporation or other foreign domiciled legal person,
29 whose name contains the words "bank," "banker," "banking,"
30 "bancorporation," "bancorp," or "trust," or the foreign language
31 equivalent thereof, or whose articles of incorporation empower it to
32 engage in banking or to engage in a trust business, may not engage in
33 banking or in a trust business in this state unless the corporation or
34 other legal person (a) is expressly authorized to do so under this
35 title, under federal law, or by the director, and (b) complies with all
36 applicable requirements of ~~((chapter 23B.15 RCW))~~ Washington state law
37 regarding foreign corporations and other foreign legal persons. If an
38 activity would not constitute "transacting business" within the meaning

1 of RCW 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not
2 constitute banking or engaging in a trust business. Nothing in this
3 subsection shall prevent operations by an alien bank in compliance with
4 chapter 30.42 RCW.

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

11 (4) ~~((Every))~~ Any individual or legal person, or director, officer
12 or manager of such legal person, who ~~((, and every director and officer~~
13 ~~of every corporation which, to the knowledge of such director or~~
14 ~~officer))~~ knowingly violates any provision of this section shall be
15 guilty of a gross misdemeanor.

16 **Sec. 5.** RCW 30.04.030 and 1994 c 92 s 8 are each amended to read
17 as follows:

18 (1) The director shall have power to adopt uniform rules in
19 accordance with the administrative procedure act, chapter 34.05 RCW, to
20 govern examinations and reports of banks ~~((and))~~ trust companies, and
21 holding companies and the form in which they shall report their assets,
22 liabilities, and reserves, charge off bad debts and otherwise keep
23 their records and accounts, and otherwise to govern the administration
24 of this title. The director shall mail a copy of the rules to each
25 bank and trust company at its principal place of business.

26 (2) The director shall have the power, and broad administrative
27 discretion, to administer and interpret the provisions of this title to
28 facilitate the delivery of financial services to the citizens of the
29 state of Washington by the banks ~~((and))~~ trust companies and holding
30 companies subject to this title.

31 **Sec. 6.** RCW 30.04.050 and 1955 c 33 s 30.04.050 are each amended
32 to read as follows:

33 ~~((Every bank and trust company and their officers, employees, and~~
34 ~~agents shall comply with the rules and regulations. The violation of~~
35 ~~any rule or regulation in addition to any other penalty provided in~~
36 ~~this title, shall subject the offender to a penalty of one hundred~~

~~dollars for each offense, to be recovered by the attorney general in a civil action in the name of the state. Each day's continuance of the violation shall be a separate and distinct offense.)~~ (1) Each bank and trust company, and their directors, officers, employees, and agents, shall comply with:

(a) This title and chapter 11.100 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 or trust company 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.

1 **Sec. 7.** RCW 30.04.060 and 1994 c 92 s 9 are each amended to read
2 as follows:

3 (1) The director, assistant director, program manager, or an
4 examiner shall visit each bank and each trust company at least once
5 every eighteen months, and oftener if necessary, or as otherwise
6 required by the rules and interpretations of applicable federal banking
7 examination authorities, for the purpose of making a full investigation
8 into the condition of such corporation, and for that purpose they are
9 hereby empowered to administer oaths and to examine under oath any
10 director, officer, employee, or agent of such corporation.

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

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

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

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

31 (~~(2)~~) (6) The director may enter into cooperative and reciprocal
32 agreements with the bank regulatory authorities of the United States,
33 any state, the District of Columbia, or any trust territory of the
34 United States for the periodic examination of domestic bank holding
35 companies owning banking institutions in other states, the District of
36 Columbia, or trust territories, and subsidiaries of such domestic bank
37 holding companies, or of out-of-state bank holding companies owning a
38 bank or trust company the principal operations of which are conducted

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

7 (7) Copies from the records, books, and accounts of a bank, trust
8 company, or holding company shall be competent evidence in all cases,
9 equal with originals thereof, if there is annexed to such copies an
10 affidavit taken before a notary public or clerk of a court under seal,
11 stating that the affiant is the officer of the bank, trust company, or
12 holding company having charge of the original records, and that the
13 copy is true and correct and is full so far as the same relates to the
14 subject matter therein mentioned.

15 **Sec. 8.** RCW 30.04.070 and 1994 c 92 s 10 are each amended to read
16 as follows:

17 The director shall collect from each bank, (~~mutual~~) savings bank,
18 trust company (~~or industrial loan company~~), savings association,
19 holding company under Title 30 RCW, holding company under Title 32 RCW,
20 business development company under chapter 31.24 RCW, agricultural
21 lender under chapter 31.35 RCW, and small business lender under chapter
22 31.40 RCW, for each examination of its condition the estimated actual
23 cost of such examination.

24 **Sec. 9.** RCW 30.04.075 and 2005 c 274 s 251 are each amended to
25 read as follows:

26 (1) All examination reports and all information obtained by the
27 director and the director's staff in conducting examinations of banks,
28 trust companies, or alien banks, and information obtained by the
29 director and the director's staff from other state or federal bank
30 regulatory authorities with whom the director has entered into
31 agreements pursuant to RCW 30.04.060(2), and information obtained by
32 the director and the director's staff relating to examination and
33 supervision of bank holding companies owning a bank in this state or
34 subsidiaries of such holding companies, is confidential and privileged
35 information and shall not be made public or otherwise disclosed to any

1 person, firm, corporation, agency, association, governmental body, or
2 other entity.

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

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

10 (b) Bank regulatory authorities with whom the director has entered
11 into agreements pursuant to RCW 30.04.060(2), and other bank regulatory
12 authorities who are the primary regulatory authority or insurer of
13 accounts for a bank holding company owning a bank, trust company, or
14 national banking association the principal operations of which are
15 conducted in this state or a subsidiary of such holding company;
16 provided that the director shall first find that the reports of
17 examination to be furnished shall receive protection from disclosure
18 comparable to that accorded by this section;

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

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

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

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

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

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

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

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

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

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

31 (5) Examination reports and information obtained by the director
32 and the director's staff in conducting examinations, or obtained from
33 other state and federal bank regulatory authorities with whom the
34 director has entered into agreements pursuant to RCW 30.04.060(2), or
35 relating to examination and supervision of bank holding companies
36 owning a bank, trust company, or national banking association the
37 principal operations of which are conducted in this state or a

1 subsidiary of such holding company, or information obtained as a result
2 of applications or investigations pursuant to RCW 30.04.230, shall not
3 be subject to public disclosure under chapter 42.56 RCW.

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

11 (7) This section shall not apply to investigation reports prepared
12 by the director and the director's staff concerning an application for
13 a new bank or trust company or an application for a branch of a bank,
14 trust company, or alien bank: PROVIDED, That the director may adopt
15 rules making confidential portions of the reports if in the director's
16 opinion the public disclosure of the portions of the report would
17 impair the ability to obtain the information which the director
18 considers necessary to fully evaluate the application.

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

24 (9) Every person who violates any provision of this section shall
25 be guilty of a gross misdemeanor.

26 **Sec. 10.** RCW 30.04.111 and 1995 c 344 s 1 are each amended to read
27 as follows:

28 (1) The total loans and extensions of credit by a bank or trust
29 company to a person outstanding at any one time shall not exceed twenty
30 percent of the capital and surplus of such bank or trust company. The
31 following loans and extensions of credit shall not be subject to this
32 limitation:

33 ((+1)) (a) Loans or extensions of credit arising from the discount
34 of commercial or business paper evidencing an obligation to the person
35 negotiating it with recourse;

36 ((+2)) (b) Loans or extensions of credit secured by bonds, notes,

1 certificates of indebtedness, or treasury bills of the United States or
2 by other such obligations wholly guaranteed as to principal and
3 interest by the United States;

4 ~~((+3))~~ (c) Loans or extensions of credit to or secured by
5 unconditional takeout commitments or guarantees of any department,
6 agency, bureau, board, commission, or establishment of the United
7 States or any corporation wholly owned directly or indirectly by the
8 United States;

9 ~~((+4))~~ (d) Loans or extensions of credit fully secured by a
10 segregated deposit account or accounts in the lending bank;

11 ~~((+5))~~ (e) Loans or extensions of credit secured by collateral
12 having a readily ascertained market value of at least one hundred
13 fifteen percent of the outstanding amount of the loan or extension of
14 credit;

15 ~~((+6))~~ (f) Loans or extensions of credit secured by bills of
16 lading, warehouse receipts, or similar documents transferring or
17 securing title to readily marketable staples shall be subject to a
18 limitation of thirty-five percent of capital and surplus in addition to
19 the general limitations, if the market value of the staples securing
20 each additional loan or extension of credit at all times equals or
21 exceeds one hundred fifteen percent of the outstanding amount of the
22 loan or extension of credit. The staples shall be fully covered by
23 insurance whenever it is customary to insure the staples;

24 ~~((+7))~~ (g) The purchase of bankers' acceptances of the kind
25 described in section 13 of the federal reserve act and issued by other
26 banks shall not be subject to any limitation based on capital and
27 surplus;

28 ~~((+8))~~ (h) The unpaid purchase price of a sale of bank property,
29 if secured by such property.

30 (2) For the purposes of this section, "capital" shall include the
31 amount of common stock outstanding and unimpaired, the amount of
32 preferred stock outstanding and unimpaired, and capital notes or
33 debentures issued pursuant to chapter 30.36 RCW.

34 (3) For the purposes of this section, "surplus" shall include
35 capital surplus, reflecting the amounts paid in excess of the par or
36 stated value of capital stock, or amounts contributed to the bank other
37 than for capital stock, and undivided profits.

1 (~~The term~~) (4) For the purposes of this section, "person"
2 (~~shall~~) includes an individual, sole proprietor, partnership, joint
3 venture, association, trust, estate, business trust, corporation,
4 sovereign government or agency, instrumentality, or political
5 subdivision thereof, or any similar entity or organization.

6 (5) The director may prescribe rules to administer and carry out
7 the purposes of this section, including without limitation rules to
8 define or further define terms used in this section and to establish
9 limits or requirements other than those specified in this section for
10 particular classes or categories of loans or extensions of credit, and
11 to determine when a loan putatively made to a person shall, for
12 purposes of this section, be attributed to another person. In adopting
13 the rules, the director shall be guided by rulings of the comptroller
14 of the currency, or successor federal banking regulator, that govern
15 lending limits applicable to national (~~commercial~~) banks. In lieu of
16 the adoption by the department of a rule applicable to specific types
17 of transactions, a bank, unless otherwise approved by the director,
18 shall conform to all applicable rulings of the comptroller of the
19 currency, or successor federal banking regulator, which (a) relate to
20 national banks, (b) govern such specific types of transactions, and (c)
21 are consistent with this section and the department's adopted rules.

22 **Sec. 11.** RCW 30.04.127 and 1994 c 92 s 15 are each amended to read
23 as follows:

24 (1) A bank or trust company, alone or in conjunction with other
25 entities, may form, incorporate, or invest in corporations or other
26 entities, whether or not such other corporation or entity is related to
27 the bank or trust company's business. The aggregate amount of funds
28 invested, or used in the formation of corporations or other entities
29 under this section shall not exceed ten percent of the assets or fifty
30 percent of the net worth, whichever is less, of the bank or trust
31 company. For purposes of this subsection, "net worth" means the
32 aggregate of capital, surplus, undivided profits, and all capital notes
33 and debentures which are subordinate to the interest of depositors.

34 (2) A bank or trust company may engage in an activity permitted
35 under this section only with the prior authorization of the director
36 and subject to such requirements, restrictions, or other conditions as
37 the director may adopt by rule, order, directive, standard, policy,

1 memorandum or other written communication with regard to the activity.
2 In approving or denying a proposed activity, the director shall
3 consider the financial and management strength of the institution, the
4 convenience and needs of the public, and whether the proposed activity
5 should be conducted through a subsidiary or affiliate of the bank. The
6 director may not authorize under this section and no bank or trust
7 company may act as an insurance or travel agent unless otherwise
8 authorized by state statute.

9 **Sec. 12.** RCW 30.04.215 and 2003 c 24 s 2 are each amended to read
10 as follows:

11 (1) Notwithstanding any other provisions of law, in addition to all
12 powers enumerated by this title, and those necessarily implied
13 therefrom, a bank or trust company may engage in other business
14 activities that have been determined by the board of governors of the
15 federal reserve system or by the United States Congress to be closely
16 related to the business of banking, as of July 27, 2003.

17 (2) A bank or trust company that desires to perform an activity
18 that is not expressly authorized by subsection (1) of this section
19 shall first apply to the director for authorization to conduct such
20 activity. Within thirty days of the receipt of this application, the
21 director shall determine whether the activity is closely related to the
22 business of banking, whether the public convenience and advantage will
23 be promoted, whether the activity is apt to create an unsafe (~~(or)~~) and
24 unsound practice by the bank or trust company and whether the applicant
25 is capable of performing such an activity. If the director finds the
26 activity to be closely related to the business of banking and the bank
27 or trust company is otherwise qualified, he or she shall immediately
28 inform the applicant that the activity is authorized. If the director
29 determines that such activity is not closely related to the business of
30 banking or that the bank or trust company is not otherwise qualified,
31 he or she shall promptly inform the applicant in writing. The
32 applicant shall have the right to appeal from an unfavorable
33 determination in accordance with the procedures of the Administrative
34 Procedure Act, chapter 34.05 RCW. In determining whether a particular
35 activity is closely related to the business of banking, the director
36 shall be guided by the rulings of the board of governors of the federal
37 reserve system and the comptroller of the currency in making

1 determinations in connection with the powers exercisable by bank
2 holding companies, and the activities performed by other commercial
3 banks or their holding companies.

4 (3) Notwithstanding any restrictions, limitations, and requirements
5 of law, in addition to all powers, express or implied, that a bank or
6 trust company has under the laws of this state, a bank or trust company
7 shall have (~~(the powers and authorities)~~) each and every power and
8 authority conferred as of (~~(August 31, 1994)~~) July 28, 1985, or ((a))
9 as of any subsequent date not later than July 27, 2003, upon ((a)) any
10 federally chartered bank doing business in this state. A bank or trust
11 company may exercise the powers and authorities conferred on a
12 federally chartered bank after July 27, 2003, only if the director
13 finds that the exercise of such powers and authorities:

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

16 (b) Maintains the fairness of competition and parity between state-
17 chartered banks or trust companies and federally chartered banks.

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

21 (5) The restrictions, limitations, and requirements applicable to
22 specific powers or authorities of federally chartered banks shall apply
23 to banks or trust companies exercising those powers or authorities
24 permitted under this subsection but only insofar as the restrictions,
25 limitations, and requirements relate to exercising the powers or
26 authorities granted banks or trust companies solely under this
27 subsection.

28 (~~(+4)~~) (6) The director may require a bank or trust company to
29 provide notice to the director prior to implementation of a plan to
30 develop, _ improve, _ or _ continue _ holding _ real _ estate, _ including
31 capitalized and operating leases, acquired through any means in full or
32 partial _ satisfaction _ of _ a _ debt _ previously _ contracted, _ under
33 circumstances which a national bank would be required to provide notice
34 to the comptroller of the currency prior to implementation of such a
35 plan. The director may adopt rules or issue orders, directives,
36 standards, policies, memoranda, or other official communications to
37 specify guidance with regard to the exercise of the powers and
38 authorities to expend such funds as are needed to enable a bank or

1 trust company to recover its total investment to the fullest extent
2 authorized for a national bank under the national bank act, 12 U.S.C.
3 Sec. 29.

4 (7) Any activity which may be performed by a bank or trust company,
5 except the taking of deposits, may be performed by (a) a corporation or
6 (b) another entity approved by the director, which in either case is
7 owned in whole or in part by the bank or trust company.

8 **Sec. 13.** RCW 30.04.217 and 2003 c 24 s 1 are each amended to read
9 as follows:

10 (1) Notwithstanding any other provisions of law, in addition to all
11 powers, express or implied, that a bank or trust company has under the
12 laws of this state, a bank or trust company shall have the powers and
13 authorities conferred upon a (~~mutual~~) savings bank under Title 32
14 RCW, only if:

15 (~~(1)~~) (a) The bank or trust company notifies the director at
16 least thirty days prior to the exercise of such power or authority by
17 the bank or trust company, unless the director waives or modifies this
18 requirement for notice as to the exercise of a power, authority, or
19 category of powers or authorities by the bank or trust company;

20 (~~(2)~~) (b) The director finds that the exercise of such powers and
21 authorities by the bank or by the trust company serves the convenience
22 and advantage of depositors, borrowers, or the general public; and

23 (~~(3)~~) (c) The director finds that the exercise of such powers and
24 authorities by the bank or by the trust company maintains the fairness
25 of competition and parity between banks or trust companies and mutual
26 savings banks.

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

30 (3) The restrictions, limitations, and requirements applicable to
31 specific powers or authorities of mutual savings banks shall apply to
32 banks or trust companies exercising those powers or authorities
33 permitted under this section but only insofar as the restrictions,
34 limitations, and requirements relate to exercising the powers or
35 authorities granted banks or trust companies solely under this section.

1 NEW SECTION. Sec. 14. RCW 30.04.310 (Penalty--General) and 1994
2 c 92 s 28, 1988 c 25 s 1, & 1985 c 30 s 137 are each repealed.

3 **Sec. 15.** RCW 30.04.450 and 1994 c 92 s 31 are each amended to read
4 as follows:

5 (1) The director may issue and serve a notice of charges upon a
6 bank or trust company ~~((a notice of charges if))~~ when in the opinion of
7 the director ~~((any bank or trust company))~~:

8 (a) ~~((Is engaging or))~~ It has engaged in an unsafe ~~((or))~~ and
9 unsound practice ~~((in conducting the))~~ related to the conduct of
10 business of the bank or trust company;

11 (b) ~~((Is violating or))~~ It has violated ~~((the law, rule, or any~~
12 ~~condition imposed in writing by the director in connection with the~~
13 ~~granting of any application or other request by the bank or trust~~
14 ~~company or any written agreement made with the director))~~ any provision
15 of RCW 30.04.050; or

16 (c) ~~((Is about to do the))~~ It is planning, attempting, or currently
17 conducting any act~~((s))~~ prohibited in (a) or (b) of this subsection
18 ~~((when the opinion that the threat exists is based upon reasonable~~
19 ~~cause))~~.

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

22 (a) The holding company has committed a violation of RCW
23 30.04.050(2);

24 (b) The conduct of the holding company has resulted in an unsafe
25 and unsound practice at the bank or trust company or a violation of any
26 provision of RCW 30.04.050 by the bank or trust company; or

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

29 (3) The notice shall contain a statement of the facts constituting
30 the alleged violation or violations or the practice or practices and
31 shall fix a time and place at which a hearing will be held to determine
32 whether an order to cease and desist should issue against the bank
33 ~~((or))~~, trust company, or holding company. The hearing shall be set
34 not earlier than ten days ~~((nor))~~ or later than thirty days after
35 service of the notice unless a later date is set by the director at the
36 request of the bank ~~((or))~~, trust company, or holding company.

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

14 ~~((+3))~~ (5) A cease and desist order shall become effective at the
15 expiration of ten days after the service of the order upon the bank or
16 trust company concerned except that a cease and desist order issued
17 upon consent shall become effective at the time specified in the order
18 and shall remain effective as provided therein unless it is stayed,
19 modified, terminated, or set aside by action of the director or a
20 reviewing court.

21 **Sec. 16.** RCW 30.04.455 and 1994 c 92 s 32 are each amended to read
22 as follows:

23 ~~((Whenever the director determines that the acts specified in RCW
24 30.04.450 or their continuation is likely to cause insolvency or
25 substantial dissipation of assets or earnings of the bank or trust
26 company or to otherwise seriously prejudice the interests of its
27 depositors, the director may also issue a temporary order requiring the
28 bank or trust company to cease and desist from the violation or
29 practice. The order shall become effective upon service on the bank or
30 trust company and shall remain effective unless set aside, limited, or
31 suspended by a court in proceedings under RCW 30.04.460 pending the
32 completion of the administrative proceedings under the notice and until
33 such time as the director shall dismiss the charges specified in the
34 notice or until the effective date of a cease and desist order issued
35 against the bank or trust company under RCW 30.04.450.))~~ (1) The
36 director may also issue a temporary order requiring a bank or trust

1 company, or its holding company, or both, to cease and desist from any
2 action or omission, as specified in RCW 30.04.450, or its continuation,
3 which the director has determined:

4 (a) Constitutes an unsafe and unsound practice or a material
5 violation of RCW 30.04.050 affecting the bank or trust company;

6 (b) Has resulted in the bank or trust company being less than
7 adequately capitalized; or

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

12 (2) The order is effective upon service on the bank, trust company,
13 or holding company, and remains in effect unless set aside, limited, or
14 suspended by the superior court in proceedings under RCW 30.04.460
15 pending the completion of the administrative proceedings under the
16 notice and until such time as the director dismisses the charges
17 specified in the notice or until the effective date of a cease and
18 desist order issued against the bank, trust company, or holding company
19 under RCW 30.04.450.

20 **Sec. 17.** RCW 30.04.460 and 1977 ex.s. c 178 s 3 are each amended
21 to read as follows:

22 (1) Within ten days after a bank ((or)), trust company, or holding
23 company has been served with a temporary cease and desist order, the
24 bank ((or)), trust company, or holding company may apply to the
25 superior court in the county of its principal place of business for an
26 injunction setting aside, limiting, or suspending the order pending the
27 completion of the administrative proceedings pursuant to the notice
28 served under RCW 30.04.455.

29 (2) The superior court shall have jurisdiction to issue the
30 injunction.

31 **Sec. 18.** RCW 30.04.470 and 1994 c 92 s 34 are each amended to read
32 as follows:

33 (1) Any administrative hearing provided in RCW 30.04.450 or
34 30.12.042 ((may)) must be ((held at such place as is designated by the
35 director and shall be)) conducted in accordance with chapter 34.05 RCW
36 and held at the place designated by the director, and may be conducted

1 by the department. The hearing shall be private unless the director
2 determines that a public hearing is necessary to protect the public
3 interest after fully considering the views of the party afforded the
4 hearing.

5 (2) Within sixty days after the hearing, the director shall render
6 a decision which shall include findings of fact upon which the decision
7 is based and shall issue and serve upon each party to the proceeding an
8 order or orders consistent with RCW 30.04.450 or 30.12.042, as the case
9 may be.

10 (3) Unless a petition for review is timely filed in the superior
11 court of the county of the principal place of business of the affected
12 bank or trust company under subsection ~~((+2))~~ (5) of this section and
13 until the record in the proceeding has been filed as therein provided,
14 the director may at any time modify, terminate, or set aside any order
15 upon such notice and in such manner as he or she shall deem proper.
16 Upon filing the record, the director may modify, terminate, or set
17 aside any order only with permission of the court.

18 (4) The judicial review provided in this section ~~((for an order
19 shall be))~~ is exclusive for orders issued under RCW 30.04.450 and
20 30.12.042.

21 ~~((+2))~~ (5) Any party to the proceeding or any person required by
22 an order issued under RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042
23 to refrain from any of the violations or practices stated therein may
24 obtain a review of any order served under subsection (1) of this
25 section other than one issued upon consent by filing in the superior
26 court of the county of the principal place of business of the affected
27 bank or trust company within ten days after the date of service of the
28 order a written petition praying that the order of the director be
29 modified, terminated, or set aside. A copy of the petition shall be
30 immediately served upon the director and the director shall then file
31 in the court the record of the proceeding. The court shall have
32 jurisdiction upon the filing of the petition, which jurisdiction shall
33 become exclusive upon the filing of the record to affirm, modify,
34 terminate, or set aside in whole or in part the order of the director
35 except that the director may modify, terminate, or set aside an order
36 with the permission of the court. The judgment and decree of the court
37 shall be final, except that it shall be subject to appellate review
38 under the rules of court.

1 ~~((3))~~ (6) The commencement of proceedings for judicial review
2 under subsection ~~((2))~~ (5) of this section shall not operate as a
3 stay of any order issued by the director unless specifically ordered by
4 the court.

5 ~~((4))~~ (7) Service of any notice or order required to be served
6 under RCW 30.04.450, 30.04.455, 30.12.040 or 30.12.042 shall be
7 accomplished in the same manner as required for the service of process
8 in civil actions in superior courts of this state.

9 **Sec. 19.** RCW 30.04.475 and 1994 c 92 s 35 are each amended to read
10 as follows:

11 (1) The director may apply to the superior court of the county of
12 the principal place of business of the bank or trust company affected
13 for the enforcement of any effective and outstanding order issued under
14 RCW 30.04.450, 30.04.455, 30.04.465, or 30.12.042, and the court shall
15 have jurisdiction to order compliance therewith.

16 (2) No court shall have jurisdiction to affect by injunction or
17 otherwise the issuance or enforcement of any order or to review,
18 modify, suspend, terminate, or set aside any order except as provided
19 in RCW 30.04.460, 30.04.465, and 30.04.470.

20 **Sec. 20.** RCW 30.12.040 and 1994 c 92 s 64 are each amended to read
21 as follows:

22 ~~((The director may serve upon a director, officer, or employee of
23 any bank or trust company a written notice of the director's intention
24 to remove the person from office or to prohibit the person from
25 participation in the conduct of the affairs of the bank or trust
26 company, or both, whenever:~~

27 ~~(1) In the opinion of the director any director, officer, or
28 employee of any bank or trust company has committed or engaged in:~~

29 ~~(a) Any violation of law or rule or of a cease and desist order
30 which has become final;~~

31 ~~(b) Any unsafe or unsound practice in connection with the bank or
32 trust company; or~~

33 ~~(c) Any act, omission, or practice which constitutes a breach of
34 his or her fiduciary duty as director, officer, or employee; and~~

35 ~~(2) The director determines that:~~

1 ~~(a) — The — bank — or — trust — company — has — suffered — or — may — suffer~~
2 ~~substantial financial loss or other damage; or~~

3 ~~(b) The interests of its depositors could be seriously prejudiced~~
4 ~~by reason of the violation or practice or breach of fiduciary duty; and~~

5 ~~(c) The violation or practice or breach of fiduciary duty is one~~
6 ~~involving personal dishonesty, recklessness, or incompetence on the~~
7 ~~part of the director, officer, or employee.)~~) (1) The director may

8 issue and serve a board director, officer, or employee of a bank or
9 trust company with written notice of intent to remove the person from
10 office or employment or to prohibit the person from participating in
11 the conduct of the affairs of the bank or trust company or any other
12 depository institution, trust company, bank holding company, thrift
13 holding company, or financial holding company doing business in this
14 state whenever, in the opinion of the director:

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

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

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

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

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

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

37 (c) The interests of depositors or trust beneficiaries of the

1 subsidiary bank or trust company could be seriously prejudiced by
2 reason of the violation or practice.

3 NEW SECTION. Sec. 21. A new section is added to chapter 30.12 RCW
4 to read as follows:

5 The director may serve written notice of charges under RCW
6 30.12.040 to suspend a person from further participation in any manner
7 in the conduct of the affairs of a bank, trust company, or holding
8 company, if the director determines that such an action is necessary
9 for the protection of the bank or trust company, or the interests of
10 the depositors or trust beneficiaries of the bank or trust company.
11 Any suspension notice issued by the director is effective upon service,
12 and unless the superior court of the county of its principal place of
13 business issues a stay of the order, remains in effect and enforceable
14 until:

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

17 (2) The effective date of a final order for removal of the person
18 under RCW 30.12.040.

19 **Sec. 22.** RCW 30.12.042 and 1994 c 92 s 65 are each amended to read
20 as follows:

21 (1) A notice of an intention to remove a director, officer, or
22 employee from office or to prohibit his or her participation in the
23 conduct of the affairs of a bank ~~((or))~~, trust company, or holding
24 company shall contain a statement of the facts which constitute grounds
25 therefor and shall fix a time and place at which a hearing will be
26 held. The hearing shall be set not earlier than ten days ~~((not))~~ or
27 later than thirty days after the date of service of the notice unless
28 an earlier or later date is set by the director at the request of the
29 director, officer, or employee for good cause shown or of the attorney
30 general of the state.

31 (2) Unless the director, officer, or employee appears at the
32 hearing personally or by a duly authorized representative, the person
33 shall be deemed to have consented to the issuance of an order of
34 removal or prohibition or both. In the event of such consent or if
35 upon the record made at the hearing the director finds that any of the
36 grounds specified in the notice have been established, the director may

1 issue such orders of removal from office or prohibition from
2 participation in the conduct of the affairs of the bank ((~~or~~)), trust
3 company, or holding company as the director may consider appropriate.

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

8 (4) An order shall remain effective except to the extent it is
9 stayed, modified, terminated, or set aside by the director or a
10 reviewing court.

11 **Sec. 23.** RCW 30.12.044 and 1994 c 92 s 66 are each amended to read
12 as follows:

13 If at any time because of the removal of one or more directors
14 under this chapter there shall be on the board of directors of a bank
15 ((~~or~~)), trust company, or holding company less than a quorum of
16 directors, all powers and functions vested in or exercisable by the
17 board shall vest in and be exercisable by the director or directors
18 remaining until such time as there is a quorum on the board of
19 directors. If all of the directors of a bank ((~~or~~)), trust company, or
20 holding company are removed under this chapter, the director shall
21 appoint persons to serve temporarily as directors until such time as
22 their respective successors take office.

23 **Sec. 24.** RCW 30.12.047 and 1994 c 92 s 67 are each amended to read
24 as follows:

25 Any present or former director, officer, or employee of a bank
26 ((~~or~~)), trust company, or holding company, or any other person against
27 whom there is outstanding an effective final order served upon the
28 person and who participates in any manner in the conduct of the affairs
29 of the bank ((~~or~~)), trust company, or holding company involved; or who
30 directly or indirectly solicits or procures, transfers or attempts to
31 transfer, or votes or attempts to vote any proxies, consents, or
32 authorizations with respect to any voting rights in the bank ((~~or~~)),
33 trust company, or holding company; or who, without the prior approval
34 of the director, votes for a director or serves or acts as a director,
35 officer, employee, or agent of any bank ((~~or~~)), trust company, or

1 holding company shall upon conviction for a violation of any order, be
2 guilty of a gross misdemeanor punishable as prescribed under chapter
3 9A.20 RCW, as now or hereafter amended.

4 **Sec. 25.** RCW 30.12.070 and 1994 c 92 s 70 are each amended to read
5 as follows:

6 The director may at any time, if in his or her judgment excessive,
7 unsafe, or improvident loans are being made or are likely to be made by
8 a bank or trust company to any of its directors or officers or the
9 directors or officers of its holding company, or to any corporation,
10 copartnership or association of which such director is a stockholder,
11 member, co-owner, or in which such director is financially interested,
12 or like discounts of the notes or obligations of any such director,
13 corporation, copartnership or association are being made or are likely
14 to be made, require such bank or trust company to submit to him or her
15 for approval all proposed loans to, or discounts of the note or
16 obligation of, any such director, officer, corporation, copartnership
17 or association, and thereafter such proposed loans and discounts shall
18 be reported upon such forms and with such information concerning the
19 desirability and safety of such loans or discounts and of the
20 responsibility and financial condition of the person, corporation,
21 copartnership or association to whom such loan is to be made or whose
22 note or obligation is to be discounted and of the amount and value of
23 any collateral that may be offered as security therefor, as the
24 director may require, and no such loan or discount shall be made
25 without his or her written approval thereon.

26 **Sec. 26.** RCW 30.12.090 and 2003 c 53 s 186 are each amended to
27 read as follows:

28 Every person who shall knowingly subscribe to or make or cause to
29 be made any false statement or false entry in the books of any bank
30 (~~(or)~~), trust company, or holding company, or shall knowingly subscribe
31 to or exhibit any false or fictitious paper or security, instrument or
32 paper, with the intent to deceive any person authorized to examine into
33 the affairs of any bank (~~(or)~~) trust company, or holding company, or
34 shall make, state, or publish any false statement of the amount of the
35 assets or liabilities of any bank (~~(or)~~), trust company, or holding

1 company, is guilty of a class B felony punishable according to chapter
2 9A.20 RCW.

3 **Sec. 27.** RCW 30.12.100 and 2003 c 53 s 187 are each amended to
4 read as follows:

5 Every officer, director, or employee or agent of any bank ((~~or~~)),
6 trust company, or holding company who, for the purpose of concealing
7 any fact or suppressing any evidence against himself or herself, or
8 against any other person, abstracts, removes, mutilates, destroys or
9 secretes any paper, book or record of any bank ((~~or~~)) trust company,
10 or holding company, or of the director, or of anyone connected with his
11 or her office, is guilty of a class B felony punishable according to
12 chapter 9A.20 RCW.

13 **Sec. 28.** RCW 30.12.190 and 1989 c 220 s 2 are each amended to read
14 as follows:

15 (1) Every person who shall knowingly violate, or knowingly aid or
16 abet the violation of any provision of RCW 30.04.010, 30.04.030,
17 30.04.050, 30.04.060, 30.04.070, 30.04.075, 30.04.111, 30.04.120,
18 30.04.130, 30.04.180, 30.04.210, 30.04.220, 30.04.280, ((~~30.04.290,~~))
19 30.04.300, 30.08.010, 30.08.020, 30.08.030, 30.08.040, 30.08.050,
20 30.08.060, 30.08.080, 30.08.090, 30.08.095, ((~~30.08.110, 30.08.120,~~))
21 30.08.140, 30.08.150, 30.08.160, 30.08.180, 30.08.190, 30.12.010,
22 30.12.020, 30.12.030, 30.12.060, 30.12.070, 30.12.130, 30.12.180,
23 30.12.190, 30.16.010, 30.20.060, ((~~30.40.010,~~)) 30.44.010, 30.44.020,
24 30.44.030, 30.44.040, 30.44.050, 30.44.060, 30.44.070, 30.44.080,
25 30.44.090, 30.44.100, 30.44.130, 30.44.140, 30.44.150, 30.44.160,
26 30.44.170, 30.44.240, 30.44.250, ((~~43.19.020, 43.19.030, 43.19.050, and~~
27 ~~43.19.090~~)) 43.320.060, 43.320.070, 43.320.080, and 43.320.100, and
28 ((~~every person~~)) any director, officer, or employee of a bank, trust
29 company, or holding company who fails to perform any act which it is
30 therein made his or her duty to perform, shall be guilty of a
31 misdemeanor. ((~~No person~~))

32 (2) A director, officer, or employee of a bank, trust company, or
33 holding company who has been convicted for the violation of the banking
34 laws of this or any other state or of the United States shall not be
35 permitted to engage in or become ((~~an officer or official~~)) or remain
36 a board director, officer, or employee of any bank ((~~or~~)) trust

1 company, or holding company organized and existing under the laws of
2 this state, or of any other depository institution, trust company, bank
3 holding company, thrift holding company, or financial holding company
4 doing business in this state.

5 **Sec. 29.** RCW 30.12.240 and 1994 c 92 s 73 are each amended to read
6 as follows:

7 If the directors of any bank, trust company, or holding company
8 shall knowingly violate, or knowingly permit any of the officers,
9 agents, or ~~((servants))~~ employees of the bank or trust company to
10 violate any of the provisions of this title or any lawful regulation or
11 directive of the director, and if the directors are aware that such
12 facts and circumstances constitute such violations, then each director
13 who participated in or assented to the violation is personally and
14 individually liable for all damages which the state or any insurer of
15 the deposits of the bank or trust company, or any trust beneficiary of
16 the trust company, sustains due to the violation.

17 **Sec. 30.** RCW 30.44.010 and 1994 c 92 s 107 are each amended to
18 read as follows:

19 ~~((Whenever it shall in any manner appear to the director that any
20 bank or trust company has violated any provision of law or is
21 conducting its business in an unsafe manner or that it refuses to
22 submit its books, papers, or concerns to lawful inspection or that any
23 director or officer thereof refuses to submit to examination on oath
24 touching its concerns, or that it has failed to carry out any
25 authorized order or direction of an examiner))~~ (1) Under the
26 circumstances set forth in subsection (2) of this section, the director
27 may give to a bank or trust company a notice to correct an unsafe
28 condition of the bank or trust company ~~((so offending or delinquent or
29 whose director or officer is thus offending or delinquent to correct
30 such offense or delinquency))~~; and if such bank or trust company fails
31 to comply with the terms of such notice within thirty days from the
32 date of its issuance or within such further time as the director may
33 allow, then the director may take possession of such bank or trust
34 company as in the case of insolvency.

35 (2) The director is authorized to give notice and take possession

1 of a bank or trust company, as described in subsection (1) of this
2 section, under the following circumstances:

3 (a) The obligations to its creditors, depositors, members, trust
4 beneficiaries, if applicable, and others exceed its assets;

5 (b) It has willfully violated a supervisory directive, cease and
6 desist order, or other authorized directive or order of the director;

7 (c) It has concealed its books, papers, records, or assets, or
8 refused to submit its books, records, or affairs to any examiner of the
9 department or the federal deposit insurance corporation;

10 (d) It is likely to be unable to pay its obligations or meet its
11 depositors' demands in the normal course of business;

12 (e) It ceases to have deposit insurance acceptable to the director;

13 (f) It fails to submit a capital restoration plan acceptable to the
14 department within a time previously called for or materially fails to
15 implement a capital restoration plan that was previously submitted and
16 accepted by the department; or

17 (g) It is critically undercapitalized or otherwise has
18 substantially insufficient capital.

19 **Sec. 31.** RCW 30.44.020 and 1994 c 92 s 108 are each amended to
20 read as follows:

21 (1) Whenever it shall in any manner appear to the director that any
22 offense or delinquency referred to in RCW 30.44.010 (~~renders~~) has
23 resulted in a bank or trust company (~~in an unsound or unsafe condition~~
24 ~~to continue its business or that its capital or surplus is reduced or~~
25 ~~impaired below the amount required by its articles of incorporation or~~
26 ~~by this title~~) being critically undercapitalized with no reasonably
27 foreseeable prospect of recovery, or that it has suspended payment of
28 its obligations or is insolvent, the director may notify such bank or
29 trust company to levy an assessment on its stock or otherwise to make
30 good such impairment or offense or other delinquency within such time
31 and in such manner as (~~he or she~~) the director may specify, or if
32 (~~he or she~~) the director deems necessary (~~he or she~~), the director
33 may take possession thereof without notice.

34 (2) The board of directors of any such bank or trust company, with
35 the consent of the holders of record of two-thirds of the capital stock
36 expressed either in writing or by vote at a stockholders' meeting
37 called for that purpose, shall have power and authority to levy such

1 assessment upon the stockholders pro rata and to forfeit the stock upon
2 which any such assessment is not paid, in the manner prescribed in RCW
3 30.12.180.

4 **Sec. 32.** RCW 30.44.030 and 1994 c 92 s 109 are each amended to
5 read as follows:

6 Within ten days after the director takes possession thereof, a bank
7 or trust company may serve a notice upon the director to appear before
8 the superior court of the county wherein such corporation is located
9 and at a time to be fixed by ~~((said))~~ the court, which shall not be
10 less than five nor more than fifteen days from the date of the service
11 of such notice, to show cause why ~~((such corporation))~~ the director's
12 action taking possession of the bank or trust company should not be
13 ~~((restored to the possession of its assets))~~ affirmed. Upon the return
14 day of such notice, or such further day as the matter may be continued
15 to, the court shall summarily hear said cause and shall dismiss the
16 same, if it be found that possession was taken by the director in good
17 faith and for cause, but if it find that no cause existed for the
18 taking possession of such ~~((corporation))~~ bank or trust company, it
19 shall require the director to restore such bank or trust company to
20 possession of its assets and enjoin ~~((him or her))~~ the director from
21 further interference therewith without cause.

22 **Sec. 33.** RCW 30.44.100 and 1994 c 92 s 116 are each amended to
23 read as follows:

24 No receiver shall be appointed by any court for any bank or trust
25 company, nor shall any assignment of any bank or trust company for the
26 benefit of creditors be valid, excepting only that a court otherwise
27 having jurisdiction may in case of imminent necessity appoint a
28 temporary receiver to take possession of and preserve the assets of
29 such corporation. Immediately upon any such appointment, the clerk of
30 such court shall notify the director ~~((by telegraph and mail))~~ in
31 writing of such appointment and the director shall forthwith take
32 possession of such bank or, trust company, as in case of insolvency,
33 and ~~((such))~~ the temporary receiver shall upon demand of the director
34 surrender up to him or her such possession and all assets which shall
35 have come into the ~~((hands))~~ possession of such receiver. The director

1 shall in due course pay such receiver out of the assets of such
2 corporation such amount as the court shall allow.

3 **Sec. 34.** RCW 30.44.110 and 2003 c 53 s 190 are each amended to
4 read as follows:

5 (1) Every transfer of its property or assets by any bank or trust
6 company ((in this state)), made (a) in contemplation of insolvency((τ))
7 or after it shall have become insolvent, (b) within ninety days before
8 the date the director takes possession of such bank or trust company
9 under RCW 30.44.010, 30.44.020, 30.44.100 or 30.44.160, or the federal
10 deposit insurance corporation is appointed as receiver or liquidator of
11 such bank under RCW 30.44.270, and (c) with a view to the preference of
12 one creditor over another((τ)) or to prevent the equal distribution of
13 its property and assets among its creditors, shall be void.

14 (2) Every director, officer, or employee of a bank or trust company
15 making any such transfer of assets is guilty of a class B felony
16 punishable according to chapter 9A.20 RCW.

17 **Sec. 35.** RCW 30.44.160 and 1994 c 92 s 120 are each amended to
18 read as follows:

19 ~~((Any))~~ (1) Subject to the consent of the director, a bank or trust
20 company may voluntarily stipulate and consent to an order taking
21 possession and thereby place itself under the control of the director
22 to be liquidated ((as herein provided by posting)) and be made subject
23 to receivership as provided in this chapter.

24 (2) Upon issuance of such order taking possession, the bank or
25 trust company shall post a notice on its door as follows: "This bank
26 (trust company) is in the ((hands)) possession of the ((State))
27 Director of the Washington State Department of Financial Institutions."

28 ~~((Immediately upon the posting of such notice, the officers of such~~
29 ~~corporation shall notify the director thereof by telegraph and mail.))~~

30 (3) The posting of such notice or the taking possession of any bank
31 or trust company by the director shall be sufficient to place all of
32 its assets and property of every nature in his or her possession and
33 bar all attachment proceedings.

34 **Sec. 36.** RCW 30.44.270 and 1994 c 92 s 131 are each amended to
35 read as follows:

1 (1) The federal deposit insurance corporation is hereby authorized
2 and empowered to be and act without bond as receiver or liquidator of
3 any bank or trust company the deposits in which are to any extent
4 insured by that corporation and of which the director shall have (~~been~~
5 ~~closed on account of inability to meet the demands of its depositors~~)
6 taken possession pursuant to RCW 30.44.010, 30.44.020, or 30.44.160.

7 (2) In the event of such closing, the director may appoint the
8 federal deposit insurance corporation as receiver or liquidator of such
9 bank or trust company.

10 (3) If the corporation accepts such appointment, it shall have and
11 possess all the powers and privileges provided by the laws of this
12 state with respect to a liquidator of a bank or trust company, its
13 depositors and other creditors, and be subject to all the duties of
14 such liquidator, except insofar as such powers, privileges, or duties
15 are in conflict with the provisions of the federal deposit insurance
16 act, as now or hereafter amended.

17 **Sec. 37.** RCW 30.46.010 and 1994 c 92 s 133 are each amended to
18 read as follows:

19 (~~For the purposes of this chapter the following terms shall be~~
20 ~~defined as follows:~~) The definitions in this section apply throughout
21 this chapter unless the context clearly requires otherwise.

22 (1) "Unsafe condition" shall mean and include, but not be limited
23 to, any one or more of the following circumstances:

24 (a) If a (~~bank's capital is impaired or impairment of capital is~~
25 ~~threatened~~) bank or trust company is less than well capitalized;

26 (b) If a bank or trust company violates the applicable provisions
27 of Title 30 RCW or any other law or regulation applicable to banks or
28 trust companies;

29 (c) If a bank or trust company conducts a fraudulent or
30 questionable practice in the conduct of its business that endangers
31 (~~the~~) a bank's or trust company's reputation or threatens its
32 solvency;

33 (d) If a bank or trust company conducts its business in an unsafe
34 or unauthorized manner;

35 (e) If a bank or trust company violates any conditions of its
36 charter or any agreement entered with the director; or

1 (f) If a bank or trust company fails to carry out any authorized
2 order or direction of the examiner or the director.

3 (2) "Exceeded its powers" shall mean and include, but not be
4 limited to the following circumstances:

5 (a) If a bank or trust company has refused to permit examination of
6 its books, papers, accounts, records, or affairs by the director,
7 assistant director, or duly commissioned examiners; or

8 (b) If a bank or trust company has neglected or refused to observe
9 an order of the director to make good, within the time prescribed, any
10 impairment of its capital.

11 (3) "Consent" includes and means a written agreement by the bank or
12 trust company to either supervisory direction or conservatorship under
13 this chapter.

14 **Sec. 38.** RCW 32.04.020 and 1999 c 14 s 13 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this title.

18 (1) ~~((The use of the term "savings bank" or "mutual savings bank"~~
19 ~~refers to savings banks organized under chapter 32.08 or 32.35 RCW or~~
20 ~~converted under chapter 32.32 or 33.44 RCW.~~

21 ~~(2) The use of the words "mutual savings" as part of a name under~~
22 ~~which business of any kind is or may be transacted by any person, firm,~~
23 ~~or corporation, except such as were organized and in actual operation~~
24 ~~on June 9, 1915, or as may be thereafter operated under the~~
25 ~~requirements of this title is hereby prohibited.~~

26 ~~(3) The use of the term "director" refers to the director of~~
27 ~~financial institutions.~~

28 ~~(4) The use of the word "branch" refers to an established office or~~
29 ~~facility other than the principal office, at which employees of the~~
30 ~~savings bank take deposits. The term "branch" does not refer to a~~
31 ~~machine permitting customers to leave funds in storage or communicate~~
32 ~~with savings bank employees who are not located at the site of that~~
33 ~~machine, unless employees of the savings bank at the site of that~~
34 ~~machine take deposits on a regular basis. An office of an entity other~~
35 ~~than the savings bank is not established by the savings bank,~~
36 ~~regardless of any affiliation, accommodation arrangement, or other~~
37 ~~relationship between the other entity and the savings bank.))~~

1 "Adequately capitalized," "critically undercapitalized," "significantly
2 undercapitalized," — "undercapitalized," — and — "well-capitalized,"
3 respectively, have meanings consistent with the definitions these same
4 terms have under the prompt corrective action provisions of the federal
5 deposit insurance act, 12 U.S.C. Sec. 1831o, or any successor federal
6 statute, and applicable enabling rules of the federal deposit insurance
7 corporation.

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

10 (3) "Branch" means an established office or facility other than the
11 principal office, at which employees of the savings bank take deposits.
12 "Branch" does not mean a machine permitting customers to leave funds in
13 storage or communicate with savings bank employees who are not located
14 at the site of that machine, unless employees of the savings bank at
15 the site of that machine take deposits on a regular basis. An office
16 of an entity other than the savings bank is not established by the
17 savings bank, regardless of any affiliation, accommodation arrangement,
18 or other relationship between the other entity and the savings bank.

19 (4) "Department" means the Washington state department of financial
20 institutions.

21 (5) "Director" means the director of the department.

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

24 (7) "Holding company" means a bank holding company, financial
25 holding company, or thrift holding company of a savings bank organized
26 under chapter 32.08 RCW, converted from a mutual savings bank to a
27 stock savings bank under chapter 32.32 RCW, or converted to a state
28 savings bank under chapter 32.34 RCW.

29 (8) "Mutual savings" when used as part of a name under which
30 business of any kind is or may be transacted by any person, firm, or
31 corporation, except such as were organized and in actual operation on
32 June 9, 1915, or as may be thereafter operated under the requirements
33 of this title is hereby prohibited.

34 (9) "Savings bank" or "mutual savings bank" means savings banks
35 organized under chapter 32.08 or 32.35 RCW or converted under chapter
36 32.32 or 33.44 RCW.

37 (10) "Thrift holding company" means a thrift institution holding

1 company under authority of laws and rules administered by the federal
2 office of thrift supervision, or its successor agency.

3 NEW SECTION. **Sec. 39.** A new section is added to chapter 32.04 RCW
4 to read as follows:

5 (1) Each savings bank and its directors, officers, employees, and
6 agents, shall comply with:

7 (a) This title and chapter 11.100 RCW as applicable to each of
8 them;

9 (b) The rules adopted by the department with respect to savings
10 banks;

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

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

13 (e) The applicable statutes, rules, and regulations administered by
14 the board of governors of the federal reserve system, the federal
15 office of thrift supervision, and the federal deposit insurance
16 corporation with respect to savings banks and holding companies.

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

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

21 (b) The rules of the department that are applicable with respect to
22 holding companies;

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

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

25 (e) The applicable statutes, rules, and regulations administered by
26 the board of governors of the federal reserve system or the federal
27 office of thrift supervision, or applicable successor agency, with
28 respect to holding companies, the violation of which would result in an
29 unsafe and unsound practice or material violation of law with respect
30 to the subsidiary savings bank of the holding company.

31 (3) The violation of any supervisory agreement, directive, order,
32 statute, rule, or regulation referenced in this section, in addition to
33 any other penalty provided in this title, shall, at the option of the
34 director, subject the offender to a penalty of up to ten thousand
35 dollars for each offense, payable upon issuance of any order or
36 directive of the director, which may be recovered by the attorney
37 general in a civil action in the name of the department.

1 **Sec. 40.** RCW 32.04.070 and 1955 c 13 s 32.04.070 are each amended
2 to read as follows:

3 Copies from the records, books, and accounts of a savings bank and
4 its holding company shall be competent evidence in all cases, equal
5 with originals thereof, if there is annexed to such copies an affidavit
6 taken before a notary public or clerk of a court under seal, stating
7 that the affiant is the officer of the savings bank or holding company
8 having charge of the original records, and that the copy is true and
9 correct and is full so far as the same relates to the subject matter
10 therein mentioned.

11 **Sec. 41.** RCW 32.04.100 and 2003 c 53 s 194 are each amended to
12 read as follows:

13 Every person who knowingly subscribes to or makes or causes to be
14 made any false statement or false entry in the books of any savings
15 bank or its holding company, or knowingly subscribes to or exhibits any
16 false or fictitious security, document or paper, with the intent to
17 deceive any person authorized to examine into the affairs of any
18 savings bank or its holding company, or makes or publishes any false
19 statement of the amount of the assets or liabilities of any such
20 savings bank or its holding company is guilty of a class B felony
21 punishable according to chapter 9A.20 RCW.

22 **Sec. 42.** RCW 32.04.110 and 2003 c 53 s 195 are each amended to
23 read as follows:

24 Every board trustee or director, officer, employee, or agent of any
25 savings bank or its holding company who for the purpose of concealing
26 any fact suppresses any evidence against himself or herself, or against
27 any other person, or who abstracts, removes, mutilates, destroys, or
28 secretes any paper, book, or record of any savings bank or its holding
29 company, or of the director, or anyone connected with his or her office
30 is guilty of a class B felony punishable according to chapter 9A.20
31 RCW.

32 **Sec. 43.** RCW 32.04.211 and 1994 c 92 s 300 are each amended to
33 read as follows:

34 (1) The director, assistant director, or an examiner shall visit
35 each savings bank at least once every eighteen months, and oftener if

1 necessary, or as otherwise required by the rules and interpretations of
2 applicable federal banking examination authorities, for the purpose of
3 making a full investigation into the condition of such corporation, and
4 for that purpose they are hereby empowered to administer oaths and to
5 examine under oath any director, officer, employee, or agent of such
6 corporation.

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

12 (3) The director may visit and examine into the affairs of any
13 nonpublicly held corporation in which the savings bank or its holding
14 company has an investment or any publicly held corporation the capital
15 stock of which is controlled by the savings bank or its holding
16 company; may appraise and revalue such corporations' investments and
17 securities; and shall have full access to all the books, records,
18 papers, securities, correspondence, bank accounts, and other papers of
19 such corporations for such purposes. (~~The director may, in his or her~~
20 ~~discretion, accept in lieu of the examinations required in this section~~
21 ~~the examinations conducted at the direction of the federal reserve~~
22 ~~board or the Federal Deposit Insurance Corporation.))~~

23 (4) Any willful false swearing in any examination is perjury in the
24 second degree.

25 ((+2)) (5) The director may enter into cooperative and reciprocal
26 agreements with the bank regulatory authorities of the United States,
27 any state, the District of Columbia, or any trust territory of the
28 United States for the periodic examination of domestic savings banks or
29 holding companies owning banking institutions in other states, the
30 District of Columbia, or trust territories, and subsidiaries of such
31 domestic savings banks and holding companies, or of out-of-state
32 holding companies owning a savings bank the principal operations of
33 which are conducted in this state. (~~The director may accept reports~~
34 ~~of examination and other records from such authorities in lieu of~~
35 ~~conducting his or her own examinations.))~~

36 (6) The director may, in his or her discretion, accept in lieu of
37 the examinations required in this section the examinations and reports
38 conducted, as applicable, at the direction of the board of governors of

1 the federal reserve system, the federal office of thrift supervision,
2 the federal deposit insurance corporation, any successor federal thrift
3 regulator or thrift holding company regulator, or other authorities,
4 domestic, foreign, or alien.

5 (7) The director may enter into joint actions with other
6 regulatory bodies having concurrent jurisdiction or may enter into such
7 actions independently to carry out his or her responsibilities under
8 this title and assure compliance with the laws of this state.

9 **Sec. 44.** RCW 32.04.220 and 2005 c 274 s 258 are each amended to
10 read as follows:

11 (1) All examination reports and all information obtained by the
12 director and the director's staff in conducting examinations of
13 (~~mutual~~) savings banks, and information obtained by the director and
14 the director's staff from other state or federal bank regulatory
15 authorities with whom the director has entered into agreements pursuant
16 to RCW 32.04.211, and information obtained by the director and the
17 director's staff relating to examination and supervision of holding
18 companies owning a savings bank in this state or subsidiaries of such
19 holding companies, is confidential and privileged information and shall
20 not be made public or otherwise disclosed to any person, firm,
21 corporation, agency, association, governmental body, or other entity.

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

26 (a) Federal agencies empowered to examine (~~mutual~~) savings banks;

27 (b) Bank regulatory authorities with whom the director has entered
28 into agreements pursuant to RCW 32.04.211, and other bank regulatory
29 authorities who are the primary regulatory authority or insurer of
30 accounts for a holding company owning a savings bank the principal
31 operations of which are conducted in this state or a subsidiary of such
32 holding company; provided that the director shall first find that the
33 reports of examination to be furnished shall receive protection from
34 disclosure comparable to that accorded by this section;

35 (c) Officials empowered to investigate criminal charges subject to
36 legal process, valid search warrant, or subpoena. If the director
37 furnishes any examination report to officials empowered to investigate

1 criminal charges, the director may only furnish that part of the report
2 which is necessary and pertinent to the investigation, and the director
3 may do this only after notifying the affected ((mutual)) savings bank
4 and any customer of the ((mutual)) savings bank who is named in that
5 part of the report of the order to furnish the part of the examination
6 report unless the officials requesting the report first obtain a waiver
7 of the notice requirement from a court of competent jurisdiction for
8 good cause;

9 (d) The examined savings bank or holding company thereof;

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

12 (f) Liquidating agents of a distressed savings bank;

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

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

18 (i) Organizations insuring or guaranteeing the shares of, or
19 deposits in, the savings bank; or

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

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

33 (4) The examination report made by the department of financial
34 institutions is designed for use in the supervision of the ((mutual))
35 savings bank, and the director may furnish a copy of the report to the
36 ((mutual)) savings bank examined. The report shall remain the property
37 of the director and will be furnished to the ((mutual)) savings bank
38 solely for its confidential use. Under no circumstances shall the

1 ((mutual)) savings bank or any of its trustees, officers, or employees
2 disclose or make public in any manner the report or any portion
3 thereof, to any person or organization not connected with the savings
4 bank as officer, director, employee, attorney, auditor, or candidate
5 for executive office with the bank. The savings bank may also, after
6 execution of an agreement not to disclose information in the report,
7 disclose the report or relevant portions thereof to a party proposing
8 to acquire or merge with the savings bank.

9 (5) Examination reports and information obtained by the director
10 and the director's staff in conducting examinations, or from other
11 state and federal bank regulatory authorities with whom the director
12 has entered into agreements pursuant to RCW 32.04.211, or relating to
13 examination and supervision of holding companies owning a savings bank
14 the principal operations of which are conducted in this state or a
15 subsidiary of such holding company, shall not be subject to public
16 disclosure under chapter 42.56 RCW.

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

24 (7) This section shall not apply to investigation reports prepared
25 by the director and the director's staff concerning an application for
26 a new ((mutual)) savings bank or an application for a branch of a
27 ((mutual)) savings bank: PROVIDED, That the director may adopt rules
28 making confidential portions of the reports if in the director's
29 opinion the public disclosure of the portions of the report would
30 impair the ability to obtain the information which the director
31 considers necessary to fully evaluate the application.

32 (8) Notwithstanding any other provision of this section or other
33 applicable law, a savings bank or holding company shall not be in
34 violation of any provision of this section on account of its compliance
35 with required reporting to the federal securities and exchange
36 commission, including the disclosure of any order of the director.

37 (9) Every person who violates any provision of this section shall

1 (~~forfeit the person's office or employment and~~) be guilty of a gross
2 misdemeanor.

3 **Sec. 45.** RCW 32.04.250 and 1994 c 92 s 302 are each amended to
4 read as follows:

5 (1) The director may issue and serve a notice of charges upon a
6 (~~mutual~~) savings bank (~~a notice of charges if~~) when, in the opinion
7 of the director (~~any mutual savings bank~~):

8 (a) (~~Is engaging or~~) It has engaged in an unsafe (~~or~~) and
9 unsound practice in conducting or in relation to (~~the~~) its business
10 (~~of the mutual savings bank~~);

11 (b) (~~Is violating or~~) It has violated (~~the law, rule, or any~~
12 ~~condition imposed in writing by the director in connection with the~~
13 ~~granting of any application or other request by the mutual savings bank~~
14 ~~or any written agreement made with the director~~) any provision of
15 section 39 of this act; or

16 (c) (~~Is about to do the~~) It is planning, attempting, or currently
17 conducting any act(~~s~~) prohibited in (a) or (b) of this subsection
18 (~~when the opinion that the threat exists is based upon reasonable~~
19 ~~cause~~).

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

22 (a) The holding company has committed a violation of section 39(2)
23 of this act;

24 (b) The conduct of the holding company has resulted in an unsafe
25 and unsound practice at the savings bank or a violation of any
26 provision of section 39 of this act by the savings bank; or

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

29 (3) The notice shall contain a statement of the facts constituting
30 the alleged violation or violations or the practice or practices and
31 shall fix a time and place at which a hearing will be held to determine
32 whether an order to cease and desist should issue against the
33 (~~mutual~~) savings bank or holding company. The hearing shall be set
34 not earlier than ten days (~~nor~~) or later than thirty days after
35 service of the notice, unless a later date is set by the director at
36 the request of the (~~mutual~~) savings bank or holding company.

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

14 ((+3)) (5) A cease and desist order shall become effective at the
15 expiration of ten days after the service of the order upon the
16 ((mutual)) savings bank or holding company concerned, except that a
17 cease and desist order issued upon consent shall become effective at
18 the time specified in the order and shall remain effective as provided
19 therein, unless it is stayed, modified, terminated, or set aside by
20 action of the director or a reviewing court.

21 **Sec. 46.** RCW 32.04.260 and 1994 c 92 s 303 are each amended to
22 read as follows:

23 ~~((Whenever the director determines that the acts specified in RCW~~
24 ~~32.04.250 or their continuation is likely to cause insolvency or~~
25 ~~substantial dissipation of assets or earnings of the mutual savings~~
26 ~~bank or to otherwise seriously prejudice the interest of its~~
27 ~~depositors, the director may also issue a temporary order requiring the~~
28 ~~mutual savings bank to cease and desist from the violation or practice.~~
29 ~~The order shall become effective upon service on the mutual savings~~
30 ~~bank and, unless set aside, limited, or suspended by a court in~~
31 ~~proceedings under RCW 32.04.270, shall remain effective pending the~~
32 ~~completion of the administrative proceedings under the notice and until~~
33 ~~such time as the director shall dismiss the charges specified in the~~
34 ~~notice or until the effective date of a cease and desist order issued~~
35 ~~against the mutual savings bank under RCW 32.04.250.)) (1) The director~~
36 may also issue a temporary order requiring a savings bank or its

1 holding company, or both, to cease and desist from any action or
2 omission, as specified in RCW 32.04.250, or its continuation, which the
3 director has determined:

4 (a) Constitutes an unsafe and unsound practice, or a material
5 violation of section 39 of this act affecting the savings bank;

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

8 (c) Is likely to cause insolvency or substantial dissipation of
9 assets or earnings of the savings bank, or to otherwise seriously
10 prejudice the interests of the savings bank's depositors.

11 (2) The order is effective upon service on the savings bank or
12 holding company, and remains effective unless set aside, limited, or
13 suspended by the superior court in proceedings under RCW 32.04.270
14 pending the completion of the administrative proceedings under the
15 notice and until such time as the director dismisses the charges
16 specified in the notice or until the effective date of a cease and
17 desist order issued against the savings bank or holding company under
18 RCW 32.04.250.

19 **Sec. 47.** RCW 32.04.270 and 1979 c 46 s 3 are each amended to read
20 as follows:

21 (1) Within ten days after a ((mutual)) savings bank or holding
22 company has been served with a temporary cease and desist order, the
23 ((mutual)) savings bank or holding company may apply to the superior
24 court in the county of its principal place of business for an
25 injunction setting aside, limiting, or suspending the order pending the
26 completion of the administrative proceedings pursuant to the notice
27 served under RCW 32.04.250.

28 (2) The superior court shall have jurisdiction to issue the
29 injunction.

30 **Sec. 48.** RCW 32.04.290 and 1994 c 92 s 305 are each amended to
31 read as follows:

32 (1) Any administrative hearing provided in RCW 32.04.250 or
33 32.16.093 (~~may be held at such place as is designated by the director~~
34 ~~and shall be conducted in accordance with chapter 34.05 RCW~~) must be
35 conducted in accordance with chapter 34.05 RCW and held at the place
36 designated by the director, and may be conducted by the department.

1 The hearing shall be private unless the director determines that a
2 public hearing is necessary to protect the public interest after fully
3 considering the views of the party afforded the hearing.

4 (2) Within sixty days after the hearing, the director shall render
5 a decision which shall include findings of fact upon which the decision
6 is based and shall issue and serve upon each party to the proceeding an
7 order or orders consistent with RCW 32.04.250 or 32.16.093, as the case
8 may be.

9 (3) Unless a petition for review is timely filed in the superior
10 court of the county of the principal place of business of the affected
11 mutual savings bank under subsection ~~((+2))~~ (5) of this section, and
12 until the record in the proceeding has been filed as provided therein,
13 the director may at any time modify, terminate, or set aside any order
14 upon such notice and in such manner as he or she shall deem proper.
15 Upon filing the record, the director may modify, terminate, or set
16 aside any order only with permission of the court.

17 (4) The judicial review provided in this section shall be exclusive
18 for orders issued under RCW 32.04.250 and 32.16.093.

19 ~~((+2))~~ (5) Any party to the proceeding or any person required by
20 an order, temporary order, or injunction issued under RCW 32.04.250,
21 32.04.260, 32.04.280, or 32.16.093 to refrain from any of the
22 violations or practices stated therein may obtain a review of any order
23 served under subsection (1) of this section other than one issued upon
24 consent by filing in the superior court of the county of the principal
25 place of business of the affected mutual savings bank within ten days
26 after the date of service of the order a written petition praying that
27 the order of the director be modified, terminated, or set aside. A
28 copy of the petition shall be immediately served upon the director and
29 the director shall then file in the court the record of the proceeding.
30 The court shall have jurisdiction upon the filing of the petition,
31 which jurisdiction shall become exclusive upon the filing of the
32 record, to affirm, modify, terminate, or set aside in whole or in part
33 the order of the director except that the director may modify,
34 terminate, or set aside an order with the permission of the court. The
35 judgment and decree of the court shall be final, except that it shall
36 be subject to appellate review under the rules of court.

37 ~~((+3))~~ (6) The commencement of proceedings for judicial review

1 under subsection ~~((+2))~~ (5) of this section shall not operate as a
2 stay of any order issued by the director unless specifically ordered by
3 the court.

4 ~~((+4))~~ (7) Service of any notice or order required to be served
5 under RCW 32.04.250, 32.04.260, or 32.16.093, or under RCW 32.16.090,
6 as now or hereafter amended, shall be accomplished in the same manner
7 as required for the service of process in civil actions in superior
8 courts of this state.

9 **Sec. 49.** RCW 32.08.153 and 2003 c 24 s 4 are each amended to read
10 as follows:

11 (1) Notwithstanding any restrictions, limitations, and requirements
12 of law, in addition to all powers, express or implied, that a mutual
13 savings bank has under the laws of this state, a mutual savings bank
14 shall have ~~((the powers and authorities that national banks had on July~~
15 ~~27, 2003)) each and every power and authority that any national bank~~
16 had on July 28, 1985, or on any subsequent date not later than July 27,
17 2003.

18 (2) The restrictions, limitations, and requirements applicable to
19 specific powers or authorities of national banks apply to mutual
20 savings banks exercising those powers or authorities permitted under
21 this section but only insofar as the restrictions, limitations, and
22 requirements relate to exercising the powers or authorities granted
23 mutual savings banks solely under this section. The director may
24 require such a savings bank to provide notice prior to implementation
25 of a plan to develop, improve, or continue holding an individual parcel
26 of real estate, including capitalized and operating leases, acquired
27 through any means in full or partial satisfaction of a debt previously
28 contracted, under circumstances in which a national bank would be
29 required to provide notice to the comptroller of the currency prior to
30 implementation of such a plan. The director may adopt rules, orders,
31 directives, standards, policies, memoranda or other communications to
32 specify guidance with regard to the exercise of the powers and
33 authorities to expend such funds as are needed to enable such a savings
34 bank to recover its total investment, to the fullest extent authorized
35 for a national bank under the national bank act, 12 U.S.C. Sec. 29.

1 NEW SECTION. **Sec. 50.** A new section is added to chapter 32.08 RCW
2 to read as follows:

3 A mutual savings bank may exercise the powers and authorities
4 granted, after July 27, 2003, to national banks or their successors
5 under federal law, only if the director finds that the exercise of such
6 powers and authorities:

7 (a) Serves the convenience and advantage of depositors and
8 borrowers; and

9 (b) Maintains the fairness of competition and parity between state-
10 chartered mutual savings banks and national banks or their successors
11 under federal law.

12 (2) The restrictions, limitations, and requirements applicable to
13 specific powers or authorities of national banks or their successors
14 under federal law shall apply to mutual savings banks exercising those
15 powers or authorities permitted under this section but only insofar as
16 the restrictions, limitations, and requirements relate to exercising
17 the powers or authorities granted mutual savings banks solely under
18 this section.

19 (3) As used in this section, "powers and authorities" include
20 without limitation powers and authorities in corporate governance
21 matters.

22 **Sec. 51.** RCW 32.16.090 and 1994 c 92 s 331 are each amended to
23 read as follows:

24 ~~((Whenever the director finds that:~~

25 ~~(1) Any trustee, officer, or employee of any mutual savings bank
26 has committed or engaged in:~~

27 ~~(a) A violation of any law, rule, or cease and desist order which
28 has become final;~~

29 ~~(b) Any unsafe or unsound practice in connection with the mutual
30 savings bank; or~~

31 ~~(c) Any act, omission, or practice which constitutes a breach of
32 his or her fiduciary duty as trustee, officer, or employee; and~~

33 ~~(2) The director determines that:~~

34 ~~(a) The mutual savings bank has suffered or may suffer substantial
35 financial loss or other damage; or~~

36 ~~(b) The interests of its depositors could be seriously prejudiced
37 by reason of the violation, practice, or breach of fiduciary duty; and~~

1 ~~(3) The director determines that the violation, practice, or breach~~
2 ~~of fiduciary duty is one involving personal dishonesty, recklessness,~~
3 ~~or incompetence on the part of the trustee, officer, or employee;~~

4 ~~Then the director may serve upon the trustee, officer, or employee~~
5 ~~of any mutual savings bank a written notice of the director's intention~~
6 ~~to remove the person from office or to prohibit the person from~~
7 ~~participation in the conduct of the affairs of the mutual savings~~
8 ~~bank.)) The director may issue and serve a board director, officer, or~~
9 ~~employee of a savings bank with written notice of intent to remove the~~
10 ~~person from office or employment or to prohibit the person from~~
11 ~~participating in the conduct of the affairs of the savings bank or any~~
12 ~~other depository institution, trust company, bank holding company,~~
13 ~~thrift holding company, or financial holding company doing business in~~
14 ~~this state whenever, in the opinion of the director:~~

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

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

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

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

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

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

37 (c) The interests of depositors or trust beneficiaries of the

1 subsidiary savings bank could be seriously prejudiced by reason of the
2 violation or practice.

3 NEW SECTION. **Sec. 52.** A new section is added to chapter 32.16 RCW
4 to read as follows:

5 The director may serve written notice of charges under RCW
6 32.16.090 to suspend a person from further participation in any manner
7 in the conduct of the affairs of a savings bank or holding company, if
8 the director determines that such an action is necessary for the
9 protection of the savings bank or holding company, or the interests of
10 the depositors. Any suspension notice issued by the director is
11 effective upon service, and unless the superior court of the county of
12 its principal place of business issues a stay of the order, remains in
13 effect and enforceable until:

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

16 (2) The effective date of a final order for removal of the person
17 under RCW 32.16.093.

18 **Sec. 53.** RCW 32.16.093 and 1994 c 92 s 332 are each amended to
19 read as follows:

20 (1) A notice of an intention to remove a board trustee or director,
21 officer, or employee from office or to prohibit his or her
22 participation in the conduct of the affairs of a (~~mutual~~) savings
23 bank or holding company shall contain a statement of the facts which
24 constitute grounds therefor and shall fix a time and place at which a
25 hearing will be held. The hearing shall be set not earlier than ten
26 days (~~nor~~) or later than thirty days after the date of service of the
27 notice unless an earlier or later date is set by the director at the
28 request of the board trustee or director, officer, or employee for good
29 cause shown or at the request of the attorney general of the state.

30 (2) Unless the board trustee or director, officer, or employee
31 appears at the hearing personally or by a duly authorized
32 representative, the person shall be deemed to have consented to the
33 issuance of an order of removal or prohibition or both. In the event
34 of such consent or if upon the record made at the hearing the director
35 finds that any of the grounds specified in the notice have been
36 established, the director may issue such orders of removal from office

1 or prohibition from participation in the conduct of the affairs of the
2 (~~mutual~~) savings bank or holding company as the director may consider
3 appropriate.

4 (3) Any order under this section shall become effective at the
5 expiration of ten days after service upon the (~~mutual~~) savings bank
6 or holding company and the trustee, director, officer, or employee
7 concerned except that an order issued upon consent shall become
8 effective at the time specified in the order.

9 An order shall remain effective except to the extent it is stayed,
10 modified, terminated, or set aside by the director or a reviewing
11 court.

12 **Sec. 54.** RCW 32.16.095 and 1994 c 92 s 333 are each amended to
13 read as follows:

14 If at any time because of the removal of one or more trustees or
15 directors under this chapter there shall be on the board of trustees or
16 board of directors of a (~~mutual~~) savings bank less than a quorum of
17 trustees or directors, all powers and functions vested in, or
18 exercisable by the board shall vest in, and be exercisable by the
19 trustee or trustees or director or directors remaining, until such time
20 as there is a quorum on the board of trustees or board of directors.
21 If all of the trustees or directors of a (~~mutual~~) savings bank are
22 removed under this chapter, the director shall appoint persons to serve
23 temporarily as trustees or directors until such time as their
24 respective successors take office.

25 **Sec. 55.** RCW 32.16.097 and 1994 c 92 s 334 are each amended to
26 read as follows:

27 Any present or former trustee, board director, officer, or employee
28 of a (~~mutual~~) savings bank or holding company or any other person
29 against whom there is outstanding an effective final order issued under
30 RCW 32.16.093, which order has been served upon the person, and who, in
31 violation of the order, (1) participates in any manner in the conduct
32 of the affairs of the (~~mutual~~) savings bank or holding company
33 involved; or (2) directly or indirectly solicits or procures, transfers
34 or attempts to transfer, or votes or attempts to vote any proxies,
35 consents, or authorizations with respect to any voting rights in the
36 (~~mutual~~) savings bank or holding company; or (3) without the prior

1 approval of the director, votes for a board trustee or director or
2 serves or acts as a trustee, director, officer, employee, or agent of
3 any (~~mutual~~) savings bank or holding company, shall be guilty of a
4 gross misdemeanor, and, upon conviction, shall be punishable as
5 prescribed under chapter 9A.20 RCW.

6 **Sec. 56.** RCW 32.16.140 and 1994 c 92 s 335 are each amended to
7 read as follows:

8 If the trustees or directors of any savings bank or holding company
9 shall knowingly violate, or knowingly permit any of the officers,
10 agents, or (~~servants~~) employees of the savings bank or holding
11 company to violate any of the provisions of this title or any lawful
12 regulation or directive of the director, and if the trustees or
13 directors are aware that such facts and circumstances constitute such
14 violations, then each trustee or director who participated in or
15 assented to the violation is personally and individually liable for all
16 damages which the state or any insurer of the deposits of the savings
17 bank sustains due to the violation.

18 **Sec. 57.** RCW 32.20.285 and 1981 c 86 s 5 are each amended to read
19 as follows:

20 (~~A mutual~~) Subject to such requirements, restrictions, or other
21 conditions as the director may adopt by rule, order, directive,
22 standard, policy, memorandum or other communication with regard to the
23 investment, a savings bank may invest its funds in such real estate,
24 improved or unimproved, and its fixtures and equipment, as the savings
25 bank shall purchase either alone or with others or through ownership of
26 interests in entities holding such real estate. The savings bank may
27 improve property which it owns, and rent, lease, sell, and otherwise
28 deal in such property, the same as any other owner thereof. The total
29 amount a (~~mutual~~) savings bank may invest pursuant to this section
30 shall not exceed twenty percent of its funds. No officer or board
31 trustee or director of the savings bank shall own or hold any interest
32 in any property in which the savings bank owns an interest, and in the
33 event the bank owns an interest in property hereunder with or as a part
34 of another entity, no officer or board trustee or director of the
35 savings bank shall own more than two and one-half percent of the equity

1 or stock of any entity involved, and all of the officers and board
2 trustees or directors of the savings bank shall not own more than five
3 percent of the equity or stock of any entity involved.

4 **Sec. 58.** RCW 32.24.040 and 1994 c 92 s 342 are each amended to
5 read as follows:

6 ~~((Whenever it appears to the director that any mutual savings bank~~
7 ~~is conducting its business in an unsafe manner or that it refuses to~~
8 ~~submit its books, papers, or concerns to lawful inspection, or that any~~
9 ~~trustee or officer thereof refuses to submit to examination on oath~~
10 ~~touching its concerns, or that it has failed to carry out any~~
11 ~~authorized order or direction of the director, such)) (1) Under the~~
12 circumstances set forth in subsection (2) of this section, the director
13 may give to a savings bank notice ((to the mutual)) of unsafe condition
14 of the savings bank ((so offending or delinquent or whose trustee or
15 officer is thus offending or delinquent to correct such offense or
16 delinquency,)); and if the ((mutual)) savings bank fails to comply with
17 the terms of such notice within thirty days from the date of its
18 issuance, or within such further time as the director may allow, then
19 the director may take possession of such ((mutual)) savings bank as in
20 the case of insolvency.

21 (2) The director is authorized to give notice and take possession
22 of a savings bank, as described in subsection (1) of this section,
23 under the following circumstances:

24 (a) The obligations to its creditors, depositors, members, trust
25 beneficiaries, if applicable, and others exceed its assets;

26 (b) It has willfully violated a supervisory directive, cease and
27 desist order, or other authorized directive or order of the director;

28 (c) It has concealed its books, papers, records, or assets, or
29 refused to submit its books, records, or affairs to any examiner of the
30 department;

31 (d) It is likely to be unable to pay its immediate obligations or
32 meet its depositors' immediate demands in the normal course of
33 business;

34 (e) It ceases to have deposit insurance acceptable to the director;

35 (f) It fails to submit a capital restoration plan acceptable to the
36 department within a time previously called for or materially fails to

1 implement a capital restoration plan that was previously submitted and
2 accepted by the department; or

3 (g) — It is critically undercapitalized or otherwise has
4 substantially insufficient capital.

5 **Sec. 59.** RCW 32.24.050 and 1994 c 92 s 343 are each amended to
6 read as follows:

7 (1) Whenever it appears to the director that any offense or
8 delinquency referred to in RCW 32.24.040 (~~renders a mutual~~) has
9 resulted in a savings bank (~~in an unsound or unsafe condition to~~
10 continue its business)) being critically undercapitalized with no
11 reasonably foreseeable prospect of recovery, or that it has suspended
12 payment of its obligations, or is insolvent, (~~such~~) the director may
13 notify such savings bank to levy an assessment on its stock, if any, or
14 otherwise to make good such impairment or offense or other delinquency
15 within such time and in such manner as the director may specify, or if
16 the director deems necessary, the director may take possession thereof
17 without notice.

18 (2) Upon taking possession of any (~~mutual~~) savings bank, the
19 director shall forthwith proceed to liquidate the business, affairs,
20 and assets thereof and such liquidation shall be had in accordance with
21 the provisions of law governing the liquidation of insolvent banks and
22 (~~trust companies~~) savings banks.

23 **Sec. 60.** RCW 32.24.060 and 1994 c 92 s 344 are each amended to
24 read as follows:

25 Within ten days after the director takes possession thereof, a
26 mutual savings bank may serve notice upon such director to appear
27 before the superior court in the county wherein such corporation is
28 located, at a time to be fixed by (~~said~~) the court, which shall not
29 be less than five nor more than fifteen days from the date of the
30 service of such notice, to show cause why (~~such corporation~~) the
31 director's action taking possession of the savings bank should not be
32 (~~restored to the possession of its assets~~) affirmed. Upon the return
33 day of such notice, or such further day as the matter may be continued
34 to, the court shall summarily hear (~~said~~) the cause and shall dismiss
35 the same, if it finds that possession was taken by the director in good
36 faith and for cause, but if it finds that no cause existed for (~~the~~)

1 taking possession of (~~such corporation~~) the savings bank, it shall
2 require the director to restore the savings bank to the possession of
3 its assets and enjoin (~~him or her~~) the director from further
4 interference therewith without cause.

5 **Sec. 61.** RCW 32.24.070 and 1994 c 92 s 345 are each amended to
6 read as follows:

7 No receiver shall be appointed by any court for any (~~mutual~~)
8 savings bank, nor shall any assignment of any such bank for the benefit
9 of creditors be valid, excepting only that a court otherwise having
10 jurisdiction may in case of imminent necessity appoint a temporary
11 receiver to take possession of and preserve the assets of the
12 (~~mutual~~) savings bank. Immediately upon any such appointment, the
13 clerk of the court shall notify the director (~~by telegram and mail~~)
14 in writing of such appointment and the director shall (~~forthwith~~)
15 immediately take possession of the (~~mutual~~) savings bank, as in case
16 of insolvency, and the temporary receiver shall upon demand of the
17 director surrender up to him or her such possession and all assets
18 which have come into his or her (~~hands~~) possession. The director
19 shall in due course pay such receiver out of the assets of the
20 (~~mutual~~) savings bank such amount as the court shall allow.

21 NEW SECTION. **Sec. 62.** A new section is added to chapter 32.24 RCW
22 to read as follows:

23 (1) Subject to the consent of the director, a savings bank may
24 voluntarily stipulate and consent to an order taking possession and
25 thereby place itself under the control of the director to be liquidated
26 and be made subject to receivership as provided in this chapter.

27 (2) Upon issuance of such order taking possession, the savings bank
28 shall post a notice on its door as follows: "This savings bank is in
29 the possession of the Director of the Washington State Department of
30 Financial Institutions."

31 (3) The posting of such notice or the taking possession of any
32 savings bank by the director shall be sufficient to place all of its
33 assets and property of every nature in the director's possession and
34 bar all attachment proceedings.

1 **Sec. 63.** RCW 32.24.080 and 2003 c 53 s 196 are each amended to
2 read as follows:

3 (1) Every transfer of its property or assets by any (~~mutual~~)
4 savings bank (~~in this state~~), made (a) after it has become insolvent,
5 (b) within ninety days before the date the director takes possession of
6 such savings bank under RCW 32.24.040, 32.24.050, or section 62 of this
7 act, or the federal deposit insurance corporation is appointed as
8 receiver or liquidator of such savings bank under RCW 32.24.090, and
9 (c) with the view to the preference of one creditor over another or to
10 prevent equal distribution of its property and assets among its
11 creditors, shall be void.

12 (2) Every trustee or board director, officer, or employee knowingly
13 making any such transfer (~~described in subsection (1) of this~~
14 ~~section~~) of assets is guilty of a class B felony punishable according
15 to chapter 9A.20 RCW.

16 **Sec. 64.** RCW 32.24.090 and 1994 c 92 s 347 are each amended to
17 read as follows:

18 (1) The federal deposit insurance corporation is hereby authorized
19 and empowered to be and act without bond as receiver or liquidator of
20 any (~~mutual~~) savings bank the deposits in which are to any extent
21 insured by that corporation and which the director shall have (~~been~~
22 ~~closed on account of inability to meet the demands of its depositors~~)
23 taken possession pursuant to RCW 32.24.040, 32.24.050, or section 62 of
24 this act.

25 (2) In the event of such closing, the director may appoint the
26 federal deposit insurance corporation as receiver or liquidator of such
27 (~~mutual~~) savings bank.

28 (3) If the corporation accepts such appointment, it shall have and
29 possess all the powers and privileges provided by the laws of this
30 state with respect to a liquidator of a mutual savings bank, its
31 depositors and other creditors, and be subject to all the duties of
32 such liquidator, except insofar as such powers, privileges, or duties
33 are in conflict with the provisions of the federal deposit insurance
34 act, as now or hereafter amended.

35 NEW SECTION. **Sec. 65.** The definitions in this section apply
36 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Unsafe condition" means and includes, but is not limited to,
2 any one or more of the following circumstances:

3 (a) If a savings bank is less than well capitalized;

4 (b) If a savings bank or holding company violates the provisions of
5 Title 32 RCW or any other law or regulation applicable to savings
6 banks;

7 (c) If a savings bank conducts a fraudulent or questionable
8 practice in the conduct of its business that endangers the savings
9 bank's reputation or threatens its solvency;

10 (d) If a savings bank conducts its business in an unsafe or
11 unauthorized manner;

12 (e) If a savings bank violates any conditions of its charter or any
13 agreement entered with the director; or

14 (f) If a savings bank fails to carry out any authorized order or
15 direction of the examiner or the director.

16 (2) "Exceeded its powers" means and includes, but is not limited to
17 the following circumstances:

18 (a) If a savings bank has refused to permit examination of its
19 books, papers, accounts, records, or affairs by the director, assistant
20 director, or duly commissioned examiners; or

21 (b) If a savings bank has neglected or refused to observe an order
22 of the director to make good, within the time prescribed, any
23 impairment of its capital.

24 (3) "Consent" means and includes a written agreement by the savings
25 bank to either supervisory direction or conservatorship under this
26 chapter.

27 NEW SECTION. **Sec. 66.** If upon examination or at any other time it
28 appears to the director that any savings bank is in an unsafe condition
29 and its condition is such as to render the continuance thereof
30 hazardous to the public or to its depositors or trust beneficiaries and
31 creditors, or if such savings bank appears to have exceeded its powers
32 or has failed to comply with the law, or if such savings bank gives its
33 consent, then the director shall upon his or her determination (1)
34 notify the savings bank of his or her determination, (2) furnish to the
35 savings bank a written list of the director's requirements to abate his
36 or her determination, and (3) if the director makes further
37 determination to directly supervise, he or she shall notify the savings

1 bank that it is under the supervisory direction of the director and
2 that the director is invoking the provisions of this chapter. If
3 placed under supervisory direction the savings bank shall comply with
4 the lawful requirements of the director within such time as provided in
5 the notice of the director, subject however, to the provisions of this
6 chapter. If the savings bank fails to comply within such time the
7 director may appoint a conservator as hereafter provided.

8 NEW SECTION. **Sec. 67.** During the period of supervisory direction
9 the director may appoint a representative to supervise such savings
10 bank and may provide that the savings bank may not do any of the
11 following during the period of supervisory direction, without the prior
12 approval of the director or the appointed representative:

- 13 (1) Dispose of, convey, or encumber any of the assets;
- 14 (2) Withdraw any of its bank accounts;
- 15 (3) Lend any of its funds;
- 16 (4) Invest any of its funds;
- 17 (5) Transfer any of its property; or
- 18 (6) Incur any debt, obligation, or liability.

19 NEW SECTION. **Sec. 68.** After the period of supervisory direction
20 specified by the director for compliance, if he or she determines that
21 such savings bank has failed to comply with the lawful requirements
22 imposed, upon due notice and hearing by the department or by consent of
23 the savings bank, the director may appoint a conservator, who shall
24 immediately take charge of such savings bank and all of its property,
25 books, records, and effects. The conservator shall conduct the
26 business of the savings bank and take such steps toward the removal of
27 the causes and conditions which have necessitated such order, as the
28 director may direct. During the pendency of the conservatorship the
29 conservator shall make such reports to the director from time to time
30 as may be required by the director, and shall be empowered to take all
31 necessary measures to preserve, protect, and recover any assets or
32 property of such savings bank, including claims or causes of actions
33 belonging to or which may be asserted by such bank, and to deal with
34 the same in his or her own name as conservator, and shall be empowered
35 to file, prosecute, and defend any suit and suits which have been filed
36 or which may thereafter be filed by or against such savings bank which

1 are deemed by the conservator to be necessary to protect all of the
2 interested parties for a property affected thereby. The director, or
3 any newly appointed assistant, may be appointed to serve as
4 conservator. If the director, however, is satisfied that such savings
5 bank is not in condition to continue business in the interest of its
6 depositors or creditors under the conservator under this section, the
7 director may proceed with appropriate remedies provided by other
8 provisions of this title.

9 NEW SECTION. **Sec. 69.** All costs incident to supervisory direction
10 and the conservatorship shall be fixed and determined by the director
11 and shall be a charge against the assets of the savings bank to be
12 allowed and paid as the director may determine.

13 NEW SECTION. **Sec. 70.** During the period of the supervisory
14 direction and during the period of conservatorship, the savings bank
15 may request the director to review an action taken or proposed to be
16 taken by the representative or conservator; specifying wherein the
17 action complained of is believed not to be in the best interest of the
18 savings bank, and such request shall stay the action specified pending
19 review of such action by the director. Any order entered by the
20 director appointing a representative and providing that the savings
21 bank shall not do certain acts as provided in sections 67 and 68 of
22 this act, any order entered by the director appointing a conservator,
23 and any order by the director following the review of an action of the
24 representative or conservator under this section shall be subject to
25 review in accordance with the administrative procedure act of the state
26 of Washington.

27 NEW SECTION. **Sec. 71.** Any suit filed against a savings bank, or
28 its conservator, after the entrance of an order by the director placing
29 such savings bank in conservatorship and while such order is in effect,
30 shall be brought in the superior court of the county of its principal
31 place of business and not elsewhere. The conservator appointed for
32 such savings bank may file suit in the superior court of the county of
33 its principal place of business or other court of competent
34 jurisdiction against any person for the purpose of preserving,

1 protecting, or recovering any asset or property of such savings bank,
2 including claims or causes of action belonging to or which may be
3 asserted by such savings bank.

4 NEW SECTION. **Sec. 72.** The conservator shall serve for such time
5 as is necessary to accomplish the purposes of the conservatorship as
6 intended by this chapter. If rehabilitated, the rehabilitated savings
7 bank shall be returned to management or new managements under such
8 conditions as are reasonable and necessary to prevent recurrence of the
9 condition which occasioned the conservatorship.

10 NEW SECTION. **Sec. 73.** If the director determines to act under
11 authority of this chapter, the sequence of his or her acts and
12 proceedings shall be as set forth in this chapter. However, it is the
13 purpose and substance of this chapter to authorize administrative
14 discretion, to allow the director administrative discretion in the
15 event of unsound banking operations, and in furtherance of that purpose
16 the director is hereby authorized to proceed with regulation either
17 under this chapter or under any other applicable provisions of law or
18 under this chapter in connection with other law, either as such law is
19 now existing or is hereinafter enacted, and it is so provided.

20 NEW SECTION. **Sec. 74.** Sections 65 through 73 of this act
21 constitute a new chapter in Title 32 RCW.

22 NEW SECTION. **Sec. 75.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 76.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

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