

House Bill 3324

Sponsored by COMMITTEE ON BUSINESS, LABOR AND CONSUMER AFFAIRS (at the request of Oregon Bankers Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows Oregon bank or Oregon trust company to be organized as limited liability company. Allows conversion between forms of business entities.

A BILL FOR AN ACT

1
2 Relating to business organizations; creating new provisions; and amending ORS 711.175, 711.180 and
3 711.185.

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

5 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 707.**

6 **SECTION 2. (1) As an alternative to being organized as a corporation under this chapter,**
7 **an Oregon bank may be organized as a limited liability company.**

8 **(2) With respect to any Oregon bank that is organized as a limited liability company, as**
9 **used in the Bank Act:**

10 **(a) "Articles of incorporation" means the Oregon bank's articles of organization, as de-**
11 **defined in ORS 63.001.**

12 **(b) "Bylaws" means the Oregon bank's operating agreement, as defined in ORS 63.001.**

13 **(c) "Certificate of incorporation" means a certificate of organization issued to the Oregon**
14 **bank.**

15 **(d) "Corporation," means a limited liability company, as defined in ORS 63.001.**

16 **(e) "Director," "directors" or "board of directors" means the Oregon bank's manager or**
17 **managers, as defined in ORS 63.001.**

18 **(f) "Dividends" means distributions, as defined in ORS 63.001, declared or paid by the**
19 **Oregon bank.**

20 **(g) "Incorporator" means the Oregon bank's organizer, as defined in ORS 63.001.**

21 **(h) "Share" or "stock" means a membership interest in the Oregon bank, as defined in**
22 **ORS 63.001.**

23 **(i) "Stockholder," "stockholders," "shareholder" or "shareholders" means the Oregon**
24 **bank's member or members, as defined in ORS 63.001.**

25 **(3) An Oregon bank organized as a limited liability company shall be organized under the**
26 **authority of the Director of the Department of Consumer and Business Services under this**
27 **chapter. Except as set forth in subsection (4) of this section, with respect to all other as-**
28 **pects of its operation and existence, an Oregon bank that is organized as a limited liability**
29 **company is subject to the provisions of ORS chapter 63, to the extent that ORS chapter 63**
30 **does not conflict with the Bank Act. In the event of any conflict between the Bank Act and**
31 **ORS chapter 63, the Bank Act controls.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (4)(a) Notwithstanding any provision of ORS chapter 63, the articles of organization of
 2 an Oregon bank that is organized as a limited liability company shall:

3 (A) State that the existence of the Oregon bank is perpetual; and

4 (B) Provide that the Oregon bank is to be managed by a board of not fewer than five
 5 managers.

6 (b) Notwithstanding any provision of ORS chapter 63, an Oregon bank that is organized
 7 as a limited liability company shall be managed exclusively by its board of managers in sub-
 8 stantially the same manner as an Oregon bank that is organized as a corporation is managed
 9 by its board of directors. The board of managers of an Oregon bank that is organized as a
 10 limited liability company has substantially the same rights, powers, privileges, duties and
 11 responsibilities as the board of directors of an Oregon bank that is organized as a corpo-
 12 ration and is subject to the provisions of this chapter pertaining to directors.

13 (c) Notwithstanding any provision of ORS chapter 63, membership interests in an Oregon
 14 bank that is organized as a limited liability company are freely transferable, and consent of
 15 the Oregon bank or its members or managers is not required for a person to acquire or
 16 transfer a membership interest in the Oregon bank. Immediately upon the completion of the
 17 transfer of the membership interest to a person, the person becomes a member and has all
 18 the rights of a member.

19 (d) ORS 63.621 (2) to (4) do not apply to an Oregon bank organized as a limited liability
 20 company.

21 (5) The articles of organization of an Oregon bank that is organized as a limited liability
 22 company shall require that liquidation of the Oregon bank conform with the requirements
 23 of the Bank Act.

24 (6) An Oregon bank that is organized as a limited liability company shall have the officers
 25 described in ORS 707.700. The officers shall be elected by the board of managers of the
 26 Oregon bank and are subject to the provisions of this chapter.

27 (7) Each Oregon bank that is organized as a limited liability company shall have a written
 28 operating agreement containing any provisions for the affairs of the Oregon bank as may be
 29 agreed upon by its members and that are consistent with the Bank Act.

30 (8) Any number of persons, not fewer than five, may act as organizers of an Oregon bank
 31 that is organized as a limited liability company.

32 **SECTION 3.** Section 4 of this 2005 Act is added to and made a part of ORS chapter 709.

33 **SECTION 4.** (1) As an alternative to being organized as a corporation pursuant to the
 34 provisions of ORS chapter 707 and this chapter, an Oregon trust company may be organized
 35 as a limited liability company.

36 (2) With respect to any Oregon trust company that is organized as a limited liability
 37 company, as used in the Bank Act:

38 (a) "Articles of incorporation" means the Oregon trust company's articles of organiza-
 39 tion, as defined in ORS 63.001.

40 (b) "Bylaws" means the Oregon trust company's operating agreement, as defined in ORS
 41 63.001.

42 (c) "Certificate of incorporation" means a certificate of organization issued to the Oregon
 43 trust company.

44 (d) "Corporation," means a limited liability company, as defined in ORS 63.001.

45 (e) "Director," "directors" or "board of directors" means the Oregon trust company's

1 manager or managers, as defined in ORS 63.001.

2 (f) "Dividends" means distributions, as defined in ORS 63.001, declared or paid by the
3 Oregon trust company.

4 (g) "Incorporator" means the Oregon trust company's organizer, as defined in ORS
5 63.001.

6 (h) "Share" or "stock" means a membership interest in the Oregon trust company, as
7 defined in ORS 63.001.

8 (i) "Stockholder," "stockholders," "shareholder" or "shareholders" means the Oregon
9 trust company's member or members, as defined in ORS 63.001.

10 (3) An Oregon trust company organized as a limited liability company shall be organized
11 under the authority of the Director of the Department of Consumer and Business Services
12 under this chapter and ORS chapter 707. Except as set forth in subsection (4) of this section,
13 with respect to all other aspects of its operation and existence, an Oregon trust company
14 that is organized as a limited liability company is subject to the provisions of ORS chapter
15 63, to the extent that ORS chapter 63 does not conflict with the Bank Act. In the event of
16 any conflict between the Bank Act and ORS chapter 63, the Bank Act controls.

17 (4)(a) Notwithstanding any provision of ORS chapter 63, the articles of organization of
18 an Oregon trust company that is organized as a limited liability company shall:

19 (A) State that the existence of the Oregon trust company is perpetual; and

20 (B) Provide that the Oregon trust company is to be managed by a board of not fewer than
21 five managers.

22 (b) Notwithstanding any provision of ORS chapter 63, an Oregon trust company that is
23 organized as a limited liability company shall be managed exclusively by its board of manag-
24 ers in substantially the same manner as an Oregon trust company that is organized as a
25 corporation is managed by its board of directors. The board of managers of an Oregon trust
26 company that is organized as a limited liability company has substantially the same rights,
27 powers, privileges, duties and responsibilities as the board of directors of an Oregon trust
28 company that is organized as a corporation and is subject to the provisions of ORS chapter
29 707 and this chapter pertaining to directors.

30 (c) Notwithstanding any provision of ORS chapter 63, membership interests in an Oregon
31 trust company that is organized as a limited liability company are freely transferable, and
32 consent of the Oregon trust company or its members or managers is not required for a
33 person to acquire or transfer a membership interest in the Oregon trust company. Imme-
34 diately upon the completion of the transfer of the membership interest to a person, the
35 person becomes a member, and has all the rights of a member.

36 (d) ORS 63.621 (2) to (4) do not apply to an Oregon trust company organized as a limited
37 liability company.

38 (5) The articles of organization of an Oregon trust company that is organized as a limited
39 liability company shall require that liquidation of the Oregon trust company conform with
40 the requirements of the Bank Act.

41 (6) An Oregon trust company that is organized as a limited liability company shall have
42 the officers described in ORS 707.700. The officers shall be elected by the board of managers
43 of the Oregon trust company and shall be subject to the provisions of this chapter and ORS
44 chapter 707.

45 (7) Each Oregon trust company that is organized as a limited liability company shall have

1 a written operating agreement containing any provisions for the affairs of the Oregon trust
2 company as may be agreed upon by its members and that are consistent with the Bank Act.

3 (8) Any number of persons, not fewer than five, may act as organizers of an Oregon trust
4 company that is organized as a limited liability company.

5 **SECTION 5.** Sections 6 to 8 of this 2005 Act are added to and made a part of ORS chapter
6 711.

7 **SECTION 6.** (1) An Oregon bank or Oregon trust company organized as a corporation
8 under ORS chapter 707 or 709 may be converted to a limited liability company. An Oregon
9 bank or Oregon trust company organized as a limited liability company may be converted to
10 a corporation. The conversion shall be accomplished by the approval of a plan of conversion
11 under section 7 of this 2005 Act and the filing of articles of conversion under section 8 of this
12 2005 Act.

13 (2) The plan of conversion shall set forth:

14 (a) The name of the Oregon bank or Oregon trust company prior to the conversion;

15 (b) The name of the Oregon bank or Oregon trust company after the conversion;

16 (c) A summary of the material terms and conditions of the conversion;

17 (d) The manner and basis of converting the ownership interests of each owner into the
18 ownership interests or obligations of the converted Oregon bank or Oregon trust company,
19 or into cash or other property, in whole or in part; and

20 (e) Any additional information required by the Director of the Department of Consumer
21 and Business Services.

22 (3) The plan of conversion may set forth other provisions relating to the conversion.

23 **SECTION 7.** (1) A plan of conversion for an Oregon bank or Oregon trust company shall
24 be approved as follows:

25 (a) In the case of the conversion of an Oregon bank or Oregon trust company that was
26 organized as a corporation under ORS chapter 707 or 709 to a limited liability company, the
27 conversion shall be approved by:

28 (A) A simple majority of the full board of directors of the converting Oregon bank or
29 Oregon trust company, unless the articles of incorporation or bylaws of the converting
30 Oregon bank or Oregon trust company require a greater percentage; and

31 (B) A vote of a simple majority of the outstanding stock of each class of voting shares
32 at a meeting called to consider the conversion, unless the articles of incorporation or bylaws
33 of the converting Oregon bank or Oregon trust company require a greater percentage.

34 (b) In the case of the conversion of an Oregon bank or Oregon trust company that was
35 organized as a limited liability company under section 2 or 4 of this 2005 Act to a corporation,
36 the conversion shall be approved by:

37 (A) A simple majority of the full board of managers of the converting Oregon bank or
38 Oregon trust company, unless the articles of organization or operating agreement of the
39 converting Oregon bank or Oregon trust company require a greater percentage; and

40 (B) A vote of the holders of a simple majority of outstanding membership interests in the
41 converting Oregon bank or Oregon trust company, at a meeting called to consider the con-
42 version, unless the articles of organization or operating agreement of the converting Oregon
43 bank or Oregon trust company require a greater percentage.

44 (2) Following approval of the plan of conversion by the board and the owners under sub-
45 section (1) of this section, the converting Oregon bank or Oregon trust company shall submit

1 the plan of conversion to the Director of the Department of Consumer and Business Services
 2 for approval. The converting Oregon bank or Oregon trust company shall also submit a
 3 nonrefundable application fee of \$3,000 and certified copies of the resolutions adopted by the
 4 board and by the owners of the Oregon bank or Oregon trust company showing approval of
 5 the plan of conversion. The director shall approve the plan of conversion if the director finds
 6 that the plan of conversion has been approved by the board and the owners of the converting
 7 institution in accordance with subsection (1) of this section and that:

8 (a) In the case of the conversion of an Oregon bank or Oregon trust company from a
 9 corporation to a limited liability company, the converting institution meets the requirements
 10 of section 2 or 4 of this 2005 Act for the organization of an Oregon bank or Oregon trust
 11 company as a limited liability company; or

12 (b) In the case of the conversion of an Oregon bank or Oregon trust company from a
 13 limited liability company to a corporation, the converting institution meets the requirements
 14 of the Bank Act for the organization of an Oregon bank or Oregon trust company as a cor-
 15 poration.

16 **SECTION 8.** (1) After a plan of conversion is approved under section 7 of this 2005 Act,
 17 the converting Oregon bank or Oregon trust company shall file articles of conversion with
 18 the Director of the Department of Consumer and Business Services. The articles shall:

19 (a) State the name and type of the business entity prior to conversion;

20 (b) State the name and type of the business entity after conversion; and

21 (c) Include the plan of conversion.

22 (2) The conversion takes effect on the date the articles of conversion are filed with the
 23 director, unless the articles of conversion state another effective date.

24 **SECTION 9.** ORS 711.175 is amended to read:

25 711.175. (1) A stockholder of an Oregon stock bank **or Oregon trust company** may dissent from
 26 the following:

27 (a) A plan of merger pursuant to which the Oregon stock bank **or Oregon trust company** is
 28 not the resulting insured institution;

29 (b) A plan of merger pursuant to which the Oregon stock bank **or Oregon trust company** is
 30 the resulting insured stock institution and the number of its voting shares outstanding immediately
 31 after the merger, plus the number of shares issuable as a result of the merger, either by the con-
 32 version of securities issued pursuant to the merger or the exercise of rights and warrants issued
 33 pursuant to the merger, will exceed by more than 20 percent the total number of voting shares of
 34 the resulting insured stock institution outstanding immediately before the merger;

35 (c) A plan of share exchange pursuant to which the Oregon stock bank **or Oregon trust com-**
 36 **pany** in which the stockholder owns shares is acquired; *[and]*

37 (d) An acquisition transaction requiring *[such]* **the** stockholder's approval pursuant to ORS
 38 711.170 (5); **and**

39 (e) **A plan of conversion pursuant to which the Oregon stock bank or Oregon trust**
 40 **company is to be converted to a limited liability company.**

41 (2) To perfect a stockholder's right to dissent to a transaction described in subsection (1) of this
 42 section, the stockholder must send or deliver a notice of dissent to the Oregon stock bank **or**
 43 **Oregon trust company** prior to or at the meeting of the stockholders at which the transaction is
 44 submitted to a vote, or the stockholder must vote against *[such]* **the** transaction.

45 (3) A stockholder *[shall]* **may** not dissent as to less than all the shares registered in the name

1 of the stockholder, except a stockholder holding, as a fiduciary or nominee, shares registered in the
 2 stockholder's name for the benefit of more than one beneficiary, may dissent as to less than all of
 3 the shares registered in the fiduciary or nominee's name if any dissent as to the shares held for a
 4 beneficiary is made as to all the shares held by the fiduciary for that beneficiary or nominee. The
 5 fiduciary's rights shall be determined as if the shares to which the fiduciary has dissented and the
 6 other shares are registered in the names of different stockholders.

7 **SECTION 10.** ORS 711.180 is amended to read:

8 711.180. (1) Any stockholder of an Oregon stock bank **or Oregon trust company** who dissented
 9 to a transaction listed under ORS 711.175 (1) and who desires to receive the value in cash of those
 10 shares, shall make written demand upon the Oregon stock bank, **Oregon trust company** or its
 11 successor and accompany the demand with the surrender of the share certificates, properly indorsed
 12 within 30 days after the stockholders' meeting at which a vote to approve [*such*] **the** transaction
 13 involving an Oregon stock bank **or Oregon trust company** was taken. Any stockholder failing to
 14 make written demand within the 30-day period shall be bound by the terms of the proposed plan of
 15 merger, plan of share exchange, **plan of conversion** or acquisition transaction agreement.

16 (2) Within 30 days after a transaction listed under ORS 711.175 (1) is effected, the Oregon stock
 17 bank, **Oregon trust company** or its successor shall give written notice thereof to each dissenting
 18 stockholder who has made demand under this section at the address of the stockholder on the stock
 19 record books of the Oregon stock bank **or Oregon trust company**, and shall make a written offer
 20 to each such stockholder to pay for the shares at a specified price in cash determined by the Oregon
 21 stock bank, **Oregon trust company** or its successor to be the fair value of the shares as of the
 22 effective date of the transaction. The notice and offer shall be accompanied by a statement of con-
 23 dition of the Oregon stock bank **or Oregon trust company**, the shares of which the dissenting
 24 stockholder held, as of the latest available date and not more than four months prior to the con-
 25 summation of the transaction, and a statement of income of the Oregon stock bank **or Oregon trust**
 26 **company** for the period ending on the date of the statement of condition.

27 (3) Any stockholder who accepts the offer of the Oregon stock bank, **Oregon trust company**
 28 or its successor within 30 days following the date on which notice of the offer was mailed or deliv-
 29 ered to dissenting stockholders shall be paid the price per share offered, in cash, within 30 days
 30 following the date on which the stockholder communicates acceptance in writing to the Oregon
 31 stock bank, **Oregon trust company** or its successor. Upon payment, the dissenting stockholder
 32 shall cease to have any interest in the shares previously held by the stockholder.

33 (4) If, within 30 days after notice of the offer, one or more dissenting stockholders do not accept
 34 the offer of the Oregon stock bank, **Oregon trust company** or its successor or if no offer is made,
 35 then the value of the shares of the dissenting stockholders who have not accepted the offer shall
 36 be ascertained, as of the effective date of the transaction, by an independent, qualified appraiser
 37 chosen by the Director of the Department of Consumer and Business Services. The valuation deter-
 38 mined by the appraiser shall govern and the appraiser's valuation of [*such*] **the** shares shall not be
 39 appealable except for one or more of the reasons set forth in ORS 36.705 (1)(a) to (d) for vacation
 40 of an arbitrator's award, and for one of the grounds for modification or correction of an arbitrator's
 41 award under ORS 36.710. Any [*such*] appeal must be made within 30 days after the date of the ap-
 42 praiser's valuation and is subject to ORS 183.415 to 183.500. The Oregon stock bank, **Oregon trust**
 43 **company** or its successor shall pay the dissenting shareholders the appraised value of the shares
 44 within 30 days after the date the appraiser sends the Oregon stock bank, **Oregon trust company**
 45 or its successor written notice of the appraiser's valuation.

1 (5) The director shall assess the reasonable costs and expenses of the appraisal proceeding
 2 equally to the Oregon stock bank, **Oregon trust company** or its successor and to the dissenting
 3 shareholders, as a group, if the amount offered by the Oregon stock bank, **Oregon trust company**
 4 or its successor is between 85 percent and 115 percent of the appraised value of the shares. The
 5 director shall assess the reasonable costs and expenses of the appraisal proceeding and the reason-
 6 able costs and expenses, including attorney fees and costs, of the Oregon stock bank, **Oregon trust**
 7 **company** or its successor to the dissenting stockholders, as a group, if the amount offered by the
 8 Oregon stock bank, **Oregon trust company** or its successor is 115 percent or more of the appraised
 9 value of the shares. The director shall assess the reasonable costs and expenses of the appraisal
 10 proceeding and the reasonable costs and expenses, including attorney fees and costs, of the dis-
 11 senting shareholders, as a group, to the Oregon stock bank, **Oregon trust company** or its successor
 12 if the amount offered by the Oregon stock bank, **Oregon trust company** or its successor is 85
 13 percent or less of the appraised value of the shares. The director's decision regarding assessment
 14 of fees and costs may be appealed as provided in ORS 183.415 to 183.500.

15 (6) Amounts required to be paid by the Oregon stock bank, **Oregon trust company** or its suc-
 16 cessors, or the dissenting shareholders under this section shall be paid within 30 days after the di-
 17 rector's assessment of any fees or costs becomes final or, if the director's decision is appealed,
 18 within 30 days after a final determination of *[such]* **the** fees and costs is made.

19 (7) The director may require, as a condition of approving a transaction listed in ORS 711.175 (1),
 20 the replacement of all or a portion of the stockholders' equity of an Oregon stock bank **or Oregon**
 21 **trust company** expended in payment to dissenting stockholders under this section.

22 (8) A stockholder may not receive the fair value of the stockholder's shares under this section:

23 (a) If the plan of merger provides that all stockholders of the *[resulting insured stock*
 24 *institution]* **Oregon stock bank** receive common stock of a holding company pursuant to a merger
 25 with an interim *[Oregon stock bank]* **banking institution** chartered under ORS 707.025, *[and]* the
 26 stockholder's Oregon stock bank **or Oregon trust company** and the interim *[Oregon stock bank]*
 27 **banking institution** are the only parties to the merger **and the stockholders' relative interests**
 28 **in the holding company are in substantially the same proportions as the stockholders' rela-**
 29 **tive interests in the Oregon stock bank or Oregon trust company, except for nominal**
 30 **changes in the stockholders' interests resulting from elimination of fractional shares; [or]**

31 (b) If the shares held by the dissenting stockholder immediately before the effective date of a
 32 transaction listed in ORS 711.175 (1) are listed on any national securities exchange or are *[included*
 33 *on the list of over-the-counter margin stocks issued by the Board of Governors of the Federal Reserve*
 34 *System]* **listed for trading on the National Association of Securities Dealers Automated Quo-**
 35 **tation stock market on either the national market or smallcap market; or**

36 (c) **If the plan of stock exchange provides that all stockholders of the Oregon stock bank**
 37 **or Oregon trust company receive stock of a holding company pursuant to the plan of stock**
 38 **exchange with the result that the stockholders' relative interests in the holding company are**
 39 **in substantially the same proportions as the stockholders' relative interests in the Oregon**
 40 **stock bank or Oregon trust company, except for nominal changes in stockholders' interests**
 41 **resulting from elimination of fractional interests.**

42 **SECTION 11.** ORS 711.185 is amended to read:

43 711.185. (1) A dissenting stockholder making a demand under ORS 711.180 may withdraw the
 44 demand if:

45 (a) The Oregon stock bank, **Oregon trust company** or its successor consents to the withdrawal;

1 or

2 (b) The dissenting stockholder pays *[such]* **the** stockholder's pro rata share of the appraisal costs
 3 and the Oregon stock bank's **or Oregon trust company's** reasonable costs and expenses, including
 4 attorney fees and costs.

5 (2) When a dissenting stockholder withdraws the demand under subsection (1) of this section,
 6 the stockholder's status as a stockholder shall be restored, without prejudice to any corporate pro-
 7 ceedings taking place in the interim.

8 **SECTION 12.** Section 13 of this 2005 Act is added to and made a part of ORS chapter 711.

9 **SECTION 13.** (1) A member of an Oregon bank or Oregon trust company that is organized
 10 as a limited liability company may dissent to a plan of conversion under which the Oregon
 11 bank or Oregon trust company is to be converted from a limited liability company to a cor-
 12 poration.

13 (2) To perfect a member's right to dissent to a plan of conversion described in subsection
 14 (1) of this section, the member must send or deliver a notice of dissent to the Oregon bank
 15 or Oregon trust company prior to or at the meeting of the members at which the conversion
 16 is submitted to a vote, or the member must vote against the conversion.

17 (3) A member may not dissent as to less than all the membership interests held in the
 18 name of the member, except a member holding, as a fiduciary or nominee, membership in-
 19 terests held in the member's name for the benefit of more than one beneficiary, may dissent
 20 as to less than all of the membership interests held in the fiduciary or nominee's name if
 21 any dissent as to the membership interests held for a beneficiary is made as to all the
 22 membership interests held by the fiduciary for that beneficiary or nominee. The fiduciary's
 23 rights shall be determined as if the membership interests to which the fiduciary has dis-
 24 sented and the other membership interests are held in the names of different members.

25 (4) Any member who dissented to a plan of conversion under this section and who desires
 26 to receive the value in cash of the member's membership interests, shall make written de-
 27 mand upon the Oregon bank or Oregon trust company and accompany the demand with the
 28 surrender of the member's certificates of membership interest, properly indorsed within 30
 29 days after the meeting of the members at which the vote to approve the plan of conversion
 30 was taken. Any member failing to make written demand within the 30-day period shall be
 31 bound by the terms of the proposed plan of conversion.

32 (5) Within 30 days after the plan of conversion becomes effective, the Oregon bank or
 33 Oregon trust company shall give written notice thereof to each dissenting member who has
 34 made demand under this section at the address of the member on the membership books of
 35 the Oregon bank or Oregon trust company, and shall make a written offer to each such
 36 member to pay for the member's membership interests at a specified price in cash, deter-
 37 mined by the Oregon bank or Oregon trust company to be the fair value of the membership
 38 interests as of the effective date of the conversion. The notice and offer shall be accompanied
 39 by a statement of condition of the Oregon bank or Oregon trust company as of the latest
 40 available date and not more than four months prior to the effective date of the plan of con-
 41 version, and a statement of income of the Oregon bank or Oregon trust company for the
 42 period ending on the date of the statement of condition.

43 (6) Any member who accepts the offer of the Oregon bank or Oregon trust company
 44 within 30 days following the date on which notice of the offer was mailed or delivered to
 45 dissenting members shall be paid the price per share offered in cash, within 30 days following

1 the date on which the member communicates acceptance in writing to the Oregon bank or
 2 Oregon trust company. Upon payment, the dissenting member shall cease to have any in-
 3 terest in the membership interests previously held by the member.

4 (7) If within 30 days after notice of the offer, one or more dissenting members do not
 5 accept the offer of the Oregon bank or Oregon trust company or if no offer is made, then
 6 the value of the membership interests of the dissenting members who have not accepted the
 7 offer shall be ascertained, as of the effective date of the conversion, by an independent,
 8 qualified appraiser chosen by the Director of the Department of Consumer and Business
 9 Services. The valuation determined by the appraiser shall govern and the appraiser's valu-
 10 ation of the membership interests is not appealable except for one or more of the reasons
 11 set forth in ORS 36.705 (1)(a) to (d) for vacation of an arbitrator's award, and for one of the
 12 grounds for modification or correction of an arbitrator's award under ORS 36.710. Any appeal
 13 must be made within 30 days after the date of the appraiser's valuation and is subject to ORS
 14 183.415 to 183.500. The Oregon bank or Oregon trust company shall pay the dissenting mem-
 15 bers the appraised value of the membership interests within 30 days after the date the ap-
 16 praiser sends the Oregon bank or Oregon trust company written notice of the appraiser's
 17 valuation.

18 (8) The director shall assess the reasonable costs and expenses of the appraisal proceed-
 19 ing equally to the Oregon bank or Oregon trust company and to the dissenting members, as
 20 a group, if the amount offered by the Oregon bank or Oregon trust company is between 85
 21 percent and 115 percent of the appraised value of the membership interests. The director
 22 shall assess the reasonable costs and expenses of the appraisal proceeding and the reasonable
 23 costs and expenses, including attorney fees and costs, of the Oregon bank or Oregon trust
 24 company to the dissenting members, as a group, if the amount offered by the Oregon bank
 25 or Oregon trust company is 115 percent or more of the appraised value of the membership
 26 interests. The director shall assess the reasonable costs and expenses of the appraisal pro-
 27 ceeding and the reasonable costs and expenses, including attorney fees and costs, of the
 28 dissenting members, as a group, to the Oregon bank or Oregon trust company if the amount
 29 offered by the Oregon bank or Oregon trust company is 85 percent or less of the appraised
 30 value of the membership interests. The director's decision regarding assessment of fees and
 31 costs may be appealed as provided in ORS 183.415 to 183.500.

32 (9) Amounts required to be paid by the Oregon bank or Oregon trust company, or by the
 33 dissenting members under this section shall be paid within 30 days after the director's as-
 34 sessment of any fees or costs becomes final, or, if the director's decision is appealed, within
 35 30 days after a final determination of the fees and costs is made.

36 (10) The director may require, as a condition of approving a plan of conversion, the re-
 37 placement of all or a portion of the members' equity of an Oregon bank or Oregon trust
 38 company.

39 (11) A dissenting member making a demand under subsection (4) of this section may
 40 withdraw the demand if:

41 (a) The Oregon bank or Oregon trust company consents to the withdrawal; or

42 (b) The dissenting member pays the member's pro rata share of the appraisal costs and
 43 the Oregon bank's or Oregon trust company's reasonable costs and expenses, including at-
 44 torney fees and costs.

45 (12) When a dissenting member withdraws the demand under subsection (11) of this sec-

1 **tion, the member's status as a member shall be restored, without prejudice to any pro-**
2 **ceedings taking place in the interim.**

3 _____