

TITLE 26
BANKS AND BANKING

CHAPTER 12
CIVIL AND CRIMINAL PENALTIES

26-1201. UNAUTHORIZED BANKING. It shall be unlawful for any person to engage in soliciting, receiving or accepting money or its equivalent on deposit as a regular business whether such deposit, however evidenced, is made subject to check or draft or other order unless such activity is specifically authorized by statute. Any person violating any provision of this section shall be guilty of a felony.

[26-1201, added 1979, ch. 41, sec. 2, p. 121.]

26-1202. UNAUTHORIZED USE OF NAME -- WAIVER BY DIRECTOR. (1) With the exception of the persons defined in subsection (2) of this section, no person may advertise or transact business in this state under a name or title that contains the word "bank," "banker," "bancorp," "savings bank," "trust company," or a word or words of similar import, unless the person has been granted a charter to engage in banking or trust business in this state by the director, or unless the director has granted the person a waiver from this prohibition as set forth in this section.

(2) The foregoing prohibition shall not apply to a national bank, federal thrift or federal savings bank, bank holding company or a state-chartered bank or trust company located in another state that has obtained all approvals that may be required under the law as a prerequisite to doing business in this state.

(3) The director may grant a waiver to allow the use of the word "bank," "banker," "bancorp," "savings bank," "trust company" or a word or words of similar import if:

(a) The person is not engaged in banking or trust business;

(b) The name or title used is not likely to deceive or mislead an individual to believe that the person is engaged in banking or trust business;

(c) The name or title, or a name or title similar to it, is not already used by another person doing business in this state; and

(d) The name or title does not suggest or imply that the person is engaged in unlawful conduct.

(4) Should the director grant a waiver as set forth in subsection (3) of this section, the director may condition or restrict the use of the name or title as he finds necessary in order to protect the public.

(5) In the event the use of a name or title is prohibited as set forth in this section and that none of the exceptions set forth in subsection (2) of this section apply, and the director has not granted a waiver to the prohibition as set forth in subsection (3) of this section, the Idaho secretary of state shall not be obligated to file any documents, records, articles or certificates that the person using or desiring to use the prohibited name or title requests the Idaho secretary of state to file.

(6) Any person who willfully violates the foregoing prohibition is guilty of a felony.

[26-1202, added 2015, ch. 204, sec. 21, p. 630.]

26-1203. FALSE STATEMENTS REGARDING BANKS AND TRUST COMPANIES -- PENALTY. Any person who shall willfully and maliciously make, circulate or transmit to another or others any false statement, rumor, or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor, shall be guilty of a felony.

[26-1203, added 1979, ch. 41, sec. 2, p. 121; am. 2000, ch. 288, sec. 3, p. 973.]

26-1204. FALSE STATEMENTS REGARDING BANKS AND TRUST COMPANIES -- CIVIL REMEDIES. (1) It is unlawful for any person to make, circulate or transmit to another or others any false statement, rumor, or suggestion, written, printed or by word of mouth, which is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of any bank or trust company doing business in this state, or who shall counsel, aid, procure or induce another to start, transmit or circulate any such statement or rumor.

(2) Whenever it appears to the director that any person has engaged in any act constituting a violation of this section, he may in his discretion bring an action in any court of competent jurisdiction to enjoin any such act and to enforce compliance with this section. Upon a showing that a person has engaged or is about to engage in an act constituting a violation of this section, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted. The director shall not be required to furnish a bond. In addition to the foregoing, the director may be granted the following remedies:

(a) An order that the person violating this section pay a civil penalty to the general fund in an amount not to exceed ten thousand dollars (\$10,000) for each violation;

(b) An order that the person violating this section pay costs to the department, which may include an amount representing reasonable attorney's fees and reimbursements for investigative efforts;

(c) An order granting other appropriate remedies upon a proper showing.

[26-1204, added 2000, ch. 288, sec. 4, p. 973.]

26-1206. PENALTY FOR UNLAWFUL HYPOTHECATION OF ASSETS. Any officer or employee of any bank or the bank holding company owning or controlling the bank, doing business in this state who, except in the manner authorized by law or the contract of the parties, hypothecates, pledges or in any way alienates any notes, stocks, bonds, mortgages, securities or any other property coming into his hands or into the possession of said bank as collateral, for safekeeping or in any other manner, and to which the bank has not acquired full title, shall be guilty of theft, and upon conviction thereof shall be punished as provided in section 18-2408, Idaho Code.

[26-1206, added 1979, ch. 41, sec. 2, p. 122; am. 1998, ch. 337, sec. 3, p. 1083.]

26-1207. CONCEALMENT OF LOANS AND DISCOUNTS. Any officer or employee of any bank or the bank holding company owning or controlling the bank who intentionally conceals from the director of the department of finance or the directors of the bank or a committee thereof, the purchase of any security,

the sale of any of its securities, or any guaranty, repurchase agreement or any other agreement whereby the bank is obligated, shall be guilty of a felony.

[26-1207, added 1979, ch. 41, sec. 2, p. 122.]

26-1208. FALSE REPORTS OR ENTRIES. Any director, officer, or employee of any bank or bank holding company who shall willingly and knowingly subscribe to or make or cause to be made any false statement or false entry on the books or in any report or statement of the bank or bank holding company, or shall knowingly make or exhibit any false reports, entries or statements with the intent to deceive any person or persons authorized to examine into the affairs of the bank or bank holding company or the board of directors of the bank or bank holding company or shall knowingly state or publish any false report or statement of any bank or bank holding company, shall be guilty of a felony.

[26-1208, added 1979, ch. 41, sec. 2, p. 122.]

26-1210. BANK OFFICERS AND DIRECTORS TO REPORT FELONIES. It shall be the duty of every officer or director of any bank to report promptly every violation or apparent violation of any of the banking laws of this state which is defined as a felony under the laws of this state, of which he has knowledge, to the director of the department of finance or his duly authorized agent or agents, immediately upon the discovery thereof. Every such person who intentionally withholds such a report, or fails to make a prompt report of any such violation with the intent to injure, deceive or defraud such bank or any of its depositors, creditors or stockholders, or the director of the department of finance or his duly authorized agent or agents shall be guilty of a misdemeanor.

[26-1210, added 1979, ch. 41, sec. 2, p. 123.]

26-1211. MISLEADING ADVERTISING. No bank or bank holding company or any officer thereof shall advertise in any manner which is misleading, false or deceptive. Any bank violating the provisions of this section shall be subject to the provisions of section 26-1115, Idaho Code.

[26-1211, added 1979, ch. 41, sec. 2, p. 123.]

26-1212. LOANS TO OFFICIALS OF DEPARTMENT PROHIBITED. It shall be unlawful for the department of finance, its director or employees engaged in bank examination or supervision, to borrow money directly or indirectly from any state bank, or director or official of a state bank. Any person violating the provision of this section shall be guilty of a felony.

[26-1212, added 1979, ch. 41, sec. 2, p. 123; am. 1993, ch. 53, sec. 4, p. 141.]

26-1213. COMMISSION FOR MAKING LOANS. No officer, director or employee of any bank or the bank holding company owning or controlling the bank shall demand, accept or receive, directly or indirectly, any commission or other consideration on account of the making, extension, or renewal by said bank of any loan, or extension of credit, to any person, firm or corporation. This prohibition shall not apply to consideration paid by a bank to its employees.

Any person violating the provisions of this section shall be guilty of a felony.

[26-1213, added 1979, ch. 41, sec. 2, p. 123; am. 1993, ch. 53, sec. 5, p. 142.]

26-1214. OVERDRAFTS. Any officer or employee of any bank who shall pay out the funds of any bank upon the check, order or draft of any individual, firm, corporation or association, which has not on deposit with such bank a sum equal to such check, order or draft shall be personally liable to it for the amount so paid, unless the drawer of such check, order or draft has previously arranged with the board of directors for credit sufficient to cover such amount. Provided, that the board of directors may ratify such overdraft and relieve such liability.

Whenever the overdrafts of the depositors of any bank doing business under this chapter are, in the opinion or judgment of the director of the department of finance, excessive or of long standing, he may require such bank to either collect or materially reduce the same or secure notes in lieu (of) thereof.

[26-1214, added 1979, ch. 41, sec. 2, p. 123.]

26-1215. PENALTY FOR OFFICER OVERDRAWING ACCOUNT. Any director, officer or employee of any bank or the bank holding company owning or controlling the bank who knowingly and consistently overdraws his or her account, or any officer or employee who allows such an overdraft shall be guilty of a misappropriation of the bank's funds and upon conviction thereof, shall be punished by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than one (1) year, or both such fine and imprisonment, in the discretion of the court.

[26-1215, added 1979, ch. 41, sec. 2, p. 124.]

26-1216. CARRYING AS ASSET PROPERTY NOT ACTUALLY OWNED. It shall be unlawful for any bank or bank holding company to carry as an asset any note, obligation or security which is not the property of the bank or bank holding company; and any officer or employee of any such bank or bank holding company who places among the assets thereof any note, obligation or security which it does not actually own, or who represents to the director or any examiner appointed by him that any note, obligation or security carried among the assets of the bank or bank holding company is the property of said bank, when in fact such note, obligation or security is not owned by said bank or bank holding company shall be guilty of a misdemeanor.

[26-1216, added 1979, ch. 41, sec. 2, p. 124.]

26-1217. PENALTY FOR NEGLECT TO OPEN. Any bank which fails to open for business within one (1) year after the date from which its charter was issued shall, unless the time is extended by the director of the department of finance, be deemed to have forfeited the charter and its right and authority to do business and to have no further legal existence, and in case the director of the department of finance approves the establishment of any branch of a bank as required by section 26-301, Idaho Code, and such branch or branch office is not established and operating within twelve (12) months after the date the charter is issued, unless the time be extended by the director for good cause shown, such approval shall be of no further force or effect and such branch or branch office shall not be established or operated until the approval of the director is again obtained as required by the statute last mentioned. The director may not extend the time for the establishment and

commencement of operations of any such bank or branch office for a longer period than an additional six (6) months.

[26-1217, added 1979, ch. 41, sec. 2, p. 124.]

26-1218. NOTES FOR STOCK SUBSCRIPTION ILLEGAL. It shall be unlawful for the officers or directors of the banking corporation to accept the note of any subscriber or stockholder in payment or part payment of the par value of the common stock, surplus or undivided profits.

[26-1218, added 1979, ch. 41, sec. 2, p. 124.]

26-1219. ADVERTISING BRANCHES. It shall be unlawful for any bank to advertise that a branch office will be established or available for bank customers until a branch charter has been issued by the director for that branch office under the provisions of chapter 3, title 26, Idaho Code. It shall be unlawful for any person or group of persons to advertise that a unit bank will be established until approval for a bank charter has been issued by the director under the provisions of chapter 2, title 26, Idaho Code.

[26-1219, added 1979, ch. 41, sec. 2, p. 124; am. 2015, ch. 204, sec. 22, p. 630.]

26-1220. ILLEGAL DATA PROCESSING ACTIVITIES. It shall be unlawful for any person to introduce fraudulent records or data into the computer system of a bank or to use the computer related facilities of a bank without the proper authorization, or to alter or destroy information or files in a bank's computer system or to obtain without proper authorization, by electronic or other means, money, financial instruments, property, services or valuable data stored in a bank's computer system. Any person violating the provisions of this section shall be guilty of a felony.

[26-1220, added 1979, ch. 41, sec. 2, p. 125.]

CHAPTER 13
TRUST COMPANIES AND TRUST DEPARTMENTS -- [REPEALED]