

TITLE 26
BANKS AND BANKING

CHAPTER 36
TRUST INSTITUTIONS -- SUPERVISION AND ENFORCEMENT

26-3601. ADMINISTRATION AND RULES. Every authorized trust institution shall be under the supervision of the director. The director may issue, promulgate, amend and rescind rules or orders necessary or proper to carry out the provisions of this act. All authorized trust institutions doing business under the provisions of this act shall conduct their business in a manner consistent with all laws relating to authorized trust institutions, and all rules or orders that may be promulgated or issued by the director.

[26-3601, added 2000, ch. 288, sec. 12, p. 988.]

26-3602. EXAMINATIONS -- PERIODIC REPORTS -- COOPERATIVE AGREEMENTS -- ASSESSMENT OF FEES. (1) The director may make such examinations, with or without notice, of any office or branch established or maintained in this state pursuant to this act as the director may deem necessary to determine whether the office is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices. The director may compel the attendance of any person or the production of any books, accounts and records for the purpose of such examination.

(2) The director may require periodic reports regarding any trust institution that has established or maintained an office in this state pursuant to this act. The required reports shall be provided by such trust institution or, if an out-of-state trust institution, may be provided by the home state regulator.

(3) The director may enter into cooperative, coordinating and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies with respect to the periodic examination or other supervision of any office in this state of an out-of-state trust institution, or any office of a state trust institution in any host state, and the director may accept the agency's or organization's report of examination and report of investigation in lieu of conducting an examination or investigation.

(4) The director may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any office established and maintained in this state by an out-of-state trust institution or any office established and maintained by a state trust institution in any host state; provided, that the director may at any time take such actions independently if the director deems such actions to be necessary or appropriate under this act or to ensure compliance with the laws of this state; but provided further that, in the case of an out-of-state trust institution, the director shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

(5) Each trust institution that maintains one (1) or more offices in this state may be assessed and, if assessed, shall pay reasonable supervisory and examination fees as set by the director. Such fees may be shared with other bank supervisory agencies or any organization affiliated with or

representing one (1) or more bank supervisory agencies in accordance with agreements between such parties and the director.

[26-3602, added 2000, ch. 288, sec. 12, p. 988.]

26-3604. NOTICE AND OPPORTUNITY FOR HEARING. Consistent with chapter 52, title 67, Idaho Code, notice and opportunity for hearing shall be provided in connection with any of the foregoing actions. Provided however, in cases involving extraordinary circumstances requiring immediate action, the director may take such action, but shall promptly afford a subsequent hearing upon application to rescind the action taken. The director shall promptly give notice to the home state regulator of each enforcement action taken against an out-of-state trust institution and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving said enforcement action.

[26-3604, added 2000, ch. 288, sec. 12, p. 989.]

26-3605. SUBPOENA POWER -- EXAMINATION UNDER OATH. The director shall have the power to subpoena witnesses, compel their attendance, require the production of evidence, administer oaths, and examine any person under oath in connection with any subject related to a duty imposed or a power vested in the director by this act.

[26-3605, added 2000, ch. 288, sec. 12, p. 990.]

26-3607. IMPAIRMENT OF CAPITAL -- UNSAFE CONDITION -- RECEIVERSHIP. If it appears to the director that the capital of a state trust company is either reduced or impaired below one million five hundred thousand dollars (\$1,500,000) or the affairs of the company are in an unsound condition, the director shall order the state trust company to make good any deficit or to remedy the unsafe condition of its affairs within sixty (60) days of the date of such order and may restrict and regulate the operation of the state trust company until the capital is so restored. If the deficiency in capital has not been made good and the unsafe condition remedied within sixty (60) days, the director may apply to the district court, in the county in which the principal office of the state trust company is located, to be appointed receiver for the liquidation or rehabilitation of the state trust company. The expense of such receivership shall be paid out of the assets of the state trust company.

[26-3607, added 2000, ch. 288, sec. 12, p. 990.]

26-3608. LIMIT OF LEGAL ACTION. This chapter does not limit any statutory or common law right of a person to bring an action in a court for any act involved in the transaction of trust business or the right of the state to bring an action against any person for a violation of law based on such act. The director may enforce any of his orders through injunctive proceedings or any other appropriate action brought in the name of this state.

[26-3608, added 2000, ch. 288, sec. 12, p. 990.]

26-3609. CONTINUED OPERATION. Any bank chartered to operate a trust department on July 1, 2000, is hereby authorized to continue to operate a trust department after July 1, 2000; provided that such bank must conform its trust department operations with the provisions of this act.

[26-3609, added 2000, ch. 288, sec. 12, p. 990.]