

Chapter 32.04 RCW
GENERAL PROVISIONS

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RCW 32.04.002 Short title. This title may be known and cited as the Washington savings bank act. [2014 c 37 § 501.]

Legislative declarations—Effective date—2014 c 37: See RCW 30A.04.005 and 30A.04.902.

RCW 32.04.010 Scope of title. This title shall not be construed as amending or repealing any other law of the state authorizing the incorporation of banks or regulating the same, but shall be deemed to be additional legislation for the sole purpose of authorizing the incorporation and operation of mutual savings banks and mutual savings banks converted under chapter 32.32 RCW to stock form, as herein prescribed. Savings banks incorporated on the stock plan, other than converted mutual savings banks, and other stock banks having savings departments as authorized by *RCW 30.20.060, or by any other law of the state heretofore or hereafter enacted, shall not be in any manner affected by the provisions of this title, or any amendment thereto. [1981 c 85 § 105; 1955 c 13 § 32.04.010. Prior: 1915 c 175 § 52; RRS § 3381.]

***Reviser's note:** RCW 30.20.060 was recodified as RCW 30A.20.060 pursuant to 2014 c 37 § 4, effective January 5, 2015.

RCW 32.04.012 Limits on loans and extensions of credit. Notwithstanding any other provisions of this title, a savings bank is subject to the same limits on loans and extensions of credit, and exceptions thereto, as set forth in *RCW 30.04.111. [2013 c 76 § 23.]

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

RCW 32.04.015 Duty to comply—Violations—Penalty. (1) Each savings bank and its 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 savings banks;
- (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

office of thrift supervision, and the federal deposit insurance corporation with respect to savings banks and holding 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 of the department that are applicable 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 the federal office of thrift supervision, or applicable 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 savings bank of the holding company.

(3) The violation of any supervisory agreement, directive, 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. [2010 c 88 § 39.]

Effective date—2010 c 88: See RCW 32.50.900.

RCW 32.04.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

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

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

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

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

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

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

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

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

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

(10) "Thrift holding company" means a thrift institution holding company under authority of laws and rules administered by the federal office of thrift supervision, or its successor agency. [2010 c 88 § 38; 1999 c 14 § 13; 1997 c 101 § 5; 1996 c 2 § 20; 1994 c 92 § 293; 1985 c 56 § 1; 1981 c 85 § 106; 1955 c 13 § 32.04.020. Prior: 1915 c 175 § 49; RRS § 3378.]

Effective date—2010 c 88: See RCW 32.50.900.

RCW 32.04.022 "Mortgage" includes deed of trust. The word "mortgage" as used in this title includes deed of trust. [1969 c 55 § 13.]

RCW 32.04.025 Powers as to horizontal property regimes or condominiums. The words "real estate" and "real property" as used in this title shall include apartments or other portions, however designated, of horizontal property regimes, or a condominium interest in property, as may be created under any laws now in existence or hereafter enacted. A mutual savings bank may do any act necessary or appropriate in connection with its interest in or ownership of any portion of a horizontal property regime or condominium. [1963 c 176 § 10.]

Horizontal property regimes: Chapter 64.32 RCW.

RCW 32.04.030 Branches—Director's approval—Conditions—

Definition. (1) A savings bank may not, without the written approval of the director, establish and operate branches in any place.

(2) A savings bank headquartered in this state desiring to establish a branch shall file a written application with the director, who shall approve or disapprove the application.

(3) The director's approval shall be conditioned on a finding that the savings bank has a satisfactory record of compliance with applicable laws and has a satisfactory financial condition. In making such findings, the director may rely on an application in the form filed with the federal deposit insurance corporation pursuant to 12 U.S.C. Sec. 1828(d). If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the director shall

transmit to the director a check in an amount established by rule to cover the expense of the investigation. A savings bank headquartered in this state shall not move its headquarters or any branch more than two miles from its existing location without prior approval of the director. On or before the date on which it opens any office at which it will transact business in any state, territory, province, or other jurisdiction, a savings bank shall give written notice to the director of the location of this office. No such notice shall become effective until it has been delivered to the director.

(4) The board of trustees of a savings bank, after notice to the director, may discontinue the operation of a branch. The savings bank shall keep the director informed in the matter and shall notify the director of the date operation of the branch is discontinued.

(5) A savings bank that is headquartered in this state and is operating branches in another state, territory, province, or other jurisdiction may provide copies of state examination reports and reports of condition of the savings bank to the regulator having oversight responsibility with regard to its operations in that other jurisdiction, including the regulator of savings associations in the event such a savings bank is transacting savings and loan business pursuant to RCW 32.08.142 in that other jurisdiction.

(6) No savings bank headquartered in another state may establish, or acquire pursuant to RCW 32.32.500, and operate branches as a savings bank or foreign savings association in any place within this state unless:

(a) The savings bank has filed with the director an agreement to comply with the requirements of *RCW 30.38.040 for periodic reports by the savings bank or by the appropriate state superintendent or equivalent regulator of the savings bank under the laws of the state in which the savings bank is incorporated, unless the laws expressly require the provision of all the reports to the director;

(b) The savings bank has filed with the director (i) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director and his or her successors its true and lawful attorney, upon whom all process in any action or proceeding against it in a cause of action arising out of business transacted by such savings bank in this state, may be served with the same force and effect as if it were a domestic corporation and had been lawfully served with process within the state, and (ii) a written certificate of designation, which may be changed from time to time by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the director;

(c) The savings bank has supplied the director with such information as he or she shall require by rule, not to exceed the information on which the director may rely in approving a branch application pursuant to this section by a savings bank headquartered in this state; and

(d) The out-of-state savings bank would be permitted to establish or acquire and maintain branches in Washington state if it were chartered as a savings bank under this title. [2013 c 76 § 22; 2005 c 348 § 4; 1996 c 2 § 21. Prior: 1994 c 256 § 93; 1994 c 92 § 294; 1985 c 56 § 2; 1955 c 80 § 1; 1955 c 13 § 32.04.030; prior: 1933 c 143 § 1; 1925 ex.s. c 86 § 10; 1915 c 175 § 15; RRS § 3344.]

***Reviser's note:** RCW 30.38.040 was recodified as RCW 30A.38.040 pursuant to 2014 c 37 § 4, effective January 5, 2015.

Effective date—2005 c 348: See note following RCW 30A.38.005.

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

RCW 32.04.035 Agency agreements—Written notice to director. On or before the date on which a mutual savings bank enters into any agency agreement authorizing another entity, as agent of the mutual savings bank, to receive deposits or renew time deposits, the mutual savings bank shall give written notice to the director of the existence of the agency agreement. The notice is not effective until it has been delivered to the office of the director. [1996 c 2 § 22.]

RCW 32.04.050 Reports. A savings bank shall render to the director, in such form as he or she shall prescribe, at least three regular reports each year exhibiting its resources and liabilities as of such dates as the director shall designate, which shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. Every such report, in a condensed form to be prescribed by the director, shall be published once in a newspaper of general circulation, published in the place where the bank is located. A savings bank shall also make such special reports as the director shall call for. A regular report shall be filed with the director within thirty days and proof of the publication thereof within forty days from the date of the issuance of the call for the report. A special report shall be filed within such time as the director shall indicate in the call therefor. A savings bank that fails to file within the prescribed time any report required by this section or proof of the publication of any report required to be published shall be subject to a penalty to the state of fifty dollars for each day's delay, recoverable by a civil action brought by the attorney general in the name of the state. [1994 c 92 § 296; 1977 ex.s. c 241 § 1; 1955 c 13 § 32.04.050. Prior: 1925 ex.s. c 86 § 13; 1915 c 175 § 39; RRS § 3368a.]

RCW 32.04.070 Certified copies of records as evidence. Copies from the records, books, and accounts of a savings bank and its holding company shall be competent evidence in all cases, equal with originals thereof, if there is annexed to such copies an affidavit taken before a notary public or clerk of a court under seal, stating that the affiant is the officer of the savings bank or holding company having charge of the original records, and that the copy is true and correct and is full so far as the same relates to the subject matter therein mentioned. [2010 c 88 § 40; 1955 c 13 § 32.04.070. Prior: 1915 c 175 § 47; RRS § 3376.]

Effective date—2010 c 88: See RCW 32.50.900.

RCW 32.04.080 Employees' pension, retirement, or health insurance benefits—Payment. A mutual savings bank may provide for pensions or retirement benefits for its disabled or superannuated employees or health insurance benefits for its employees and may pay a part or all of the cost of providing such pensions or benefits in

accordance with a plan adopted by its board of trustees or a board committee, none of whose members is an officer of the bank. The board of trustees of a savings bank or such a committee of the board may set aside from current earnings reserves in such amounts as the board or the committee shall deem wise to provide for the payment of future pensions or benefits. [1999 c 14 § 14. Prior: 1994 c 256 § 95; 1994 c 92 § 297; 1955 c 80 § 2; 1955 c 13 § 32.04.080; prior: 1949 c 119 § 1; 1937 c 64 § 2; 1935 c 87 § 1; Rem. Supp. 1949 § 3366-1.]

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

RCW 32.04.082 Pension, retirement, or health insurance benefits—Waiver by bank of offsets attributable to social security. With respect to pension payments or retirement or health insurance benefits payable by a mutual savings bank to any employee heretofore or hereafter retired, such bank may waive all or any part of any offsets thereto attributable to social security benefits receivable by such employee. [1999 c 14 § 15; 1957 c 80 § 7.]

RCW 32.04.085 Pension, retirement, or health insurance benefits—Supplementation. Any pension payment or retirement or health insurance benefits payable by a mutual savings bank to a former officer or employee, or to a person or persons entitled thereto by virtue of service performed by such officer or employee, in the discretion of a majority of all the trustees of such bank, may be supplemented from time to time. The board of trustees of a savings bank or a board committee, none of whose members is an officer of the bank, may set aside from current earnings, reserves in such amounts as the board or the committee shall deem appropriate to provide for the payments of future supplemental payments. [1999 c 14 § 16. Prior: 1994 c 256 § 96; 1994 c 92 § 298; 1971 ex.s. c 222 § 1.]

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

Severability—1971 ex.s. c 222: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 222 § 9.]

RCW 32.04.100 Penalty for falsification. Every person who knowingly subscribes to or makes or causes to be made any false statement or false entry in the books of any savings bank or its holding company, or knowingly subscribes to or exhibits any false or fictitious security, document or paper, with the intent to deceive any person authorized to examine into the affairs of any savings bank or its holding company, or makes or publishes any false statement of the amount of the assets or liabilities of any such savings bank or its holding company is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2010 c 88 § 41; 2003 c 53 § 194; 1955 c 13 § 32.04.100. Prior: 1931 c 132 § 11; RRS § 3379b.]

Effective date—2010 c 88: See RCW 32.50.900.

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

RCW 32.04.110 Penalty for concealing or destroying evidence. Every board trustee or director, officer, employee, or agent of any savings bank or its holding company who for the purpose of concealing any fact suppresses any evidence against himself or herself, or against any other person, or who abstracts, removes, mutilates, destroys, or secretes any paper, book, or record of any savings bank or its holding company, or of the director, or anyone connected with his or her office is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2010 c 88 § 42; 2003 c 53 § 195; 1994 c 92 § 299; 1955 c 13 § 32.04.110. Prior: 1931 c 132 § 12; RRS § 3379c.]

Effective date—2010 c 88: See RCW 32.50.900.

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

RCW 32.04.120 Specific penalties invoked. The provisions of RCW 9.24.050, 9.24.040 and 9.24.030 shall apply to the corporations authorized under this title. [1955 c 13 § 32.04.120. Prior: 1915 c 175 § 50; RRS § 3379.]

RCW 32.04.130 General penalty. Any person who does anything forbidden by chapter 32.04, 32.08, 32.12, 32.16 or 32.24 RCW of this title for which a penalty is not provided in this title, or in some other law of the state, shall be guilty of a gross misdemeanor and be punished accordingly. [1955 c 13 § 32.04.130. Prior: 1915 c 175 § 51; RRS § 3380.]

RCW 32.04.150 Cost of examination. See RCW 30A.04.070.

RCW 32.04.170 Conversion to mutual savings bank of savings and loan association. See chapter 33.44 RCW.

RCW 32.04.190 Bank stabilization act. See chapter 30A.56 RCW.

RCW 32.04.200 Capital notes or debentures. See chapter 30A.36 RCW.

RCW 32.04.210 Saturday closing authorized. See RCW 30A.04.330.

RCW 32.04.211 Examinations directed—Cooperative agreements and actions. (1) The director, assistant director, or an examiner shall visit each savings bank at least once every eighteen months, and oftener if necessary, or as otherwise required by the rules and

interpretations of applicable federal banking examination authorities, for the purpose of making a full investigation into the condition of such corporation, and for that purpose they are hereby empowered to administer oaths and to examine under oath any director, officer, employee, or agent of such corporation.

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

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

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

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

(6) The director may, in his or her discretion, accept in lieu of the examinations required in this section the examinations and reports conducted, as applicable, at the direction of the board of governors of the federal reserve system, the federal office of thrift supervision, the federal deposit insurance corporation, any successor federal thrift regulator or thrift holding company regulator, or other authorities, domestic, foreign, or alien.

(7) The director may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his or her responsibilities under this title and assure compliance with the laws of this state. [2010 c 88 § 43; 1994 c 92 § 300; 1989 c 180 § 4.]

Effective date—2010 c 88: See RCW 32.50.900.

RCW 32.04.220 Examination reports and other information—

Confidential—Privileged—Penalty. (1) All examination reports and all information obtained by the director and the director's staff in conducting examinations of savings banks, and information obtained by the director and the director's staff from other state or federal bank regulatory authorities with whom the director has entered into agreements pursuant to RCW 32.04.211, and information obtained by the director and the director's staff relating to examination and supervision of holding companies owning a savings bank in this state or subsidiaries of such holding companies, is confidential and privileged information and shall not be made public or otherwise

disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

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

(a) Federal agencies empowered to examine savings banks;

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

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

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

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

(f) Liquidating agents of a distressed savings bank;

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

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

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

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

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

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

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

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

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

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

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

(9) Every person who violates any provision of this section shall be guilty of a gross misdemeanor. [2010 c 88 § 44; 2005 c 274 § 258; 1994 c 92 § 301; 1989 c 180 § 5; 1977 ex.s. c 245 § 2.]

Effective date—2010 c 88: See RCW 32.50.900.

Severability—1977 ex.s. c 245: See note following RCW 30A.04.075.

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

RCW 32.04.250 Notice of charges—Reasons for issuance—Grounds—Contents of notice—Hearing—Cease and desist orders. (1) The director may issue and serve a notice of charges upon a savings bank when, in the opinion of the director:

(a) It has engaged in an unsafe and unsound practice in conducting or in relation to its business;

(b) It has violated any provision of RCW 32.04.015; or

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

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

(a) The holding company has committed a violation of RCW 32.04.015(2);

(b) The conduct of the holding company has resulted in an unsafe and unsound practice at the savings bank or a violation of any provision of RCW 32.04.015 by the savings bank; or

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

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

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

(5) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the savings bank or holding company concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein, unless it is stayed, modified, terminated, or set aside by action of the director or a reviewing court. [2010 c 88 § 45; 1994 c 92 § 302; 1979 c 46 § 1.]

Effective date—2010 c 88: See RCW 32.50.900.

Severability—1979 c 46: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 c 46 § 11.]

RCW 32.04.260 Temporary cease and desist orders—Reasons for issuance. (1) The director may also issue a temporary order requiring a savings bank or its holding company, or both, to cease and desist from any action or omission, as specified in RCW 32.04.250, or its continuation, which the director has determined:

(a) Constitutes an unsafe and unsound practice, or a material violation of RCW 32.04.015 affecting the savings bank;

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

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

(2) The order is effective upon service on the savings bank or holding company, and remains effective unless set aside, limited, or suspended by the superior court in proceedings under RCW 32.04.270 pending the completion of the administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice or until the effective date of a cease and desist order issued against the savings bank or holding company under RCW 32.04.250. [2010 c 88 § 46; 1994 c 92 § 303; 1979 c 46 § 2.]

Effective date—2010 c 88: See RCW 32.50.900.

Severability—1979 c 46: See note following RCW 32.04.250.

RCW 32.04.270 Temporary cease and desist order—Injunction to set aside, limit, or suspend temporary order. (1) Within ten days after a savings bank or holding company has been served with a temporary cease and desist order, the savings bank or holding company may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under RCW 32.04.250.

(2) The superior court shall have jurisdiction to issue the injunction. [2010 c 88 § 47; 1979 c 46 § 3.]

Effective date—2010 c 88: See RCW 32.50.900.

Severability—1979 c 46: See note following RCW 32.04.250.

RCW 32.04.280 Violation of temporary cease and desist order—Injunction to enforce order. In the case of a violation or threatened violation of a temporary cease and desist order issued under RCW 32.04.260, the director may apply to the superior court of the county of the principal place of business of the mutual savings bank for an injunction to enforce the order. The court shall issue an injunction if it determines there has been a violation or threatened violation. [1994 c 92 § 304; 1979 c 46 § 4.]

Severability—1979 c 46: See note following RCW 32.04.250.

RCW 32.04.290 Administrative hearing provided for in RCW 32.04.250 or 32.16.093—Procedure—Order—Judicial review. (1) Any administrative hearing provided in RCW 32.04.250 or 32.16.093 must be conducted in accordance with chapter 34.05 RCW and held at the place designated by the director, and may be conducted by the department. The hearing shall be private unless the director determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

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

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

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

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

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

(7) Service of any notice or order required to be served under RCW 32.04.250, 32.04.260, or 32.16.093, or under RCW 32.16.090, as now or hereafter amended, shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state. [2010 c 88 § 48; 1994 c 92 § 305; 1979 c 46 § 5.]

Effective date—2010 c 88: See RCW 32.50.900.

Severability—1979 c 46: See note following RCW 32.04.250.

RCW 32.04.300 Jurisdiction of courts as to cease and desist orders, orders to remove trustee, officer, or employee, etc. The director may apply to the superior court of the county of the principal place of business of the mutual savings bank affected for the enforcement of any effective and outstanding order issued under RCW 32.04.250 or 32.16.093, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any such order, or to review, modify, suspend, terminate, or set aside any such order, except as provided in RCW 32.04.270, 32.04.280, and 32.04.290. [1994 c 92 § 306; 1979 c 46 § 6.]

Severability—1979 c 46: See note following RCW 32.04.250.

RCW 32.04.310 Automated teller machines and night depositories security. Chapter 19.174 RCW applies to automated teller machines and night depositories regulated under this title. [1993 c 324 § 12.]

Effective date—1993 c 324: See RCW 19.174.900.

RCW 32.04.320 Director—Powers under chapter 19.144 RCW. The director or the director's designee may take such action as provided for in this title to enforce, investigate, or examine persons covered by chapter 19.144 RCW. [2008 c 108 § 18.]

Findings—2008 c 108: See RCW 19.144.005.