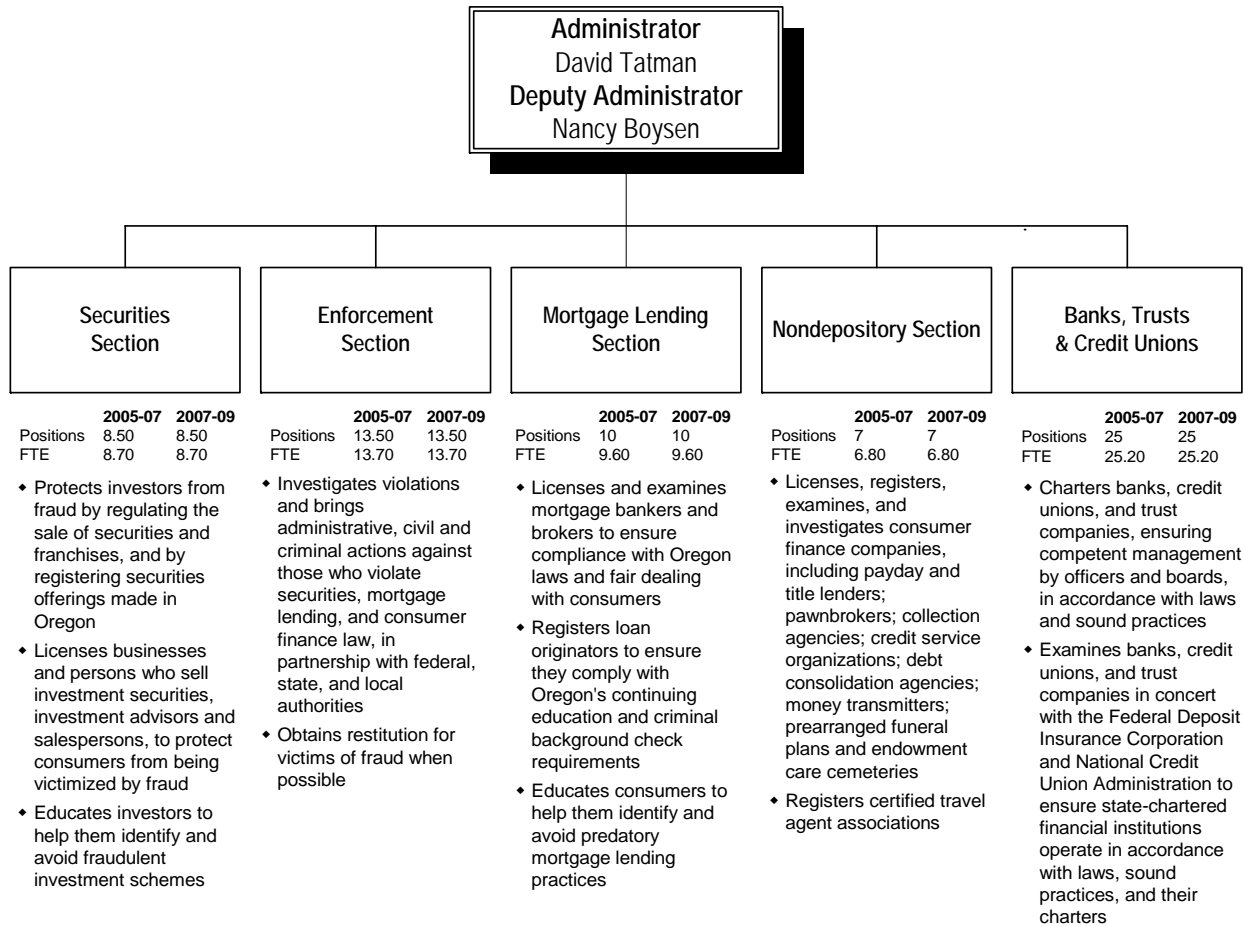


DIVISION OF FINANCE & CORPORATE SECURITIES



Division of Finance & Corporate Securities	
2005-07 Approved	2007-09 Requested
64 Positions	64 Positions
64.00 FTE	64.00 FTE
\$10,715,946	\$11,908,046

DIVISION OF FINANCE & CORPORATE SECURITIES

Mission

Encourage a wide range of financial services, products, and information for Oregonians, provided in a safe, sound, equitable, and fraud-free manner.

What we do

The Division of Finance & Corporate Securities:

- Supervises state-chartered or state-licensed financial institutions and financial-service providers (e.g. banks, credit unions, consumer finance companies, pawnbrokers, mortgage lenders, and money transmitters).
- Regulates the sale of securities in Oregon, reviewing securities offerings and licensing those who sell them and those who advise about or manage securities.
- Protects consumers, ensuring industry compliance with financial service laws, and promoting confidence in the financial system by investigating complaints and alleged violations.
- Provides education and other resources so that consumers can recognize and avoid fraud and inappropriate products and services.

Program delivery

The division strives to:

- Protect consumers and businesses by ensuring the soundness of 35 state-chartered banks, three extra-national banks, and four independent trust companies that operate in the state. In combination, the banks regulated by DFCS have more than \$30.5 billion in assets. The four independent trust companies, in combination with the three state-chartered banks that have trust powers, have more than \$7.6 billion in managed and non-managed assets. DFCS' routine monitoring and active regulatory oversight of these entities provides protection for all Oregonians. This program provides a stable business climate, particularly for small business, by ensuring access to capital, credit, and other banking services.
- Provide direct protection for more than 906,000 credit union members through oversight of 23 state-chartered credit unions, with total assets of \$8.8 billion and 141 offices.
- Maintain the confidence of Oregonians through active licensing, examination, and enforcement functions for 620 consumer finance companies that make loans of \$50,000 or less under the Consumer Finance Act. These are generally "sub-prime" loans made to individuals with poor credit. This includes short-term lending such as payday and title loans. Active examination and enforcement activities have resulted in significant restitution for consumers.
- Foster and promote home ownership by licensing 1,824 mortgage brokers and bankers and registering more than 12,930 loan originators who offer and deliver home loan products to Oregonians. This program encourages home ownership and construction activity while protecting consumers from fraud, abuse, and predatory lending practices that can lead consumers into foreclosure and/or bankruptcy. Most importantly, this program works to ensure accurate and complete disclosures are made to inform and protect consumers during what is often the single largest financial transaction they will make.

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- Protect consumers and instill investor confidence by licensing and examining 3,085 investment advisors and broker-dealers in Oregon and 95,558 salespersons. This program enhances Oregon's business climate by promoting capital formation and protecting investors by registering, overseeing, and examining securities offerings, investment advisors, and securities brokers, and by investigating violations and prosecuting securities fraud. The program will send approximately \$18.5 million to the General Fund in the 2005-07 biennium in fees from registration filings.
- Support a positive business climate and provide consumer protection by registering 690 collection agencies, 12 credit service organizations, and 50 debt consolidation organizations that conduct debt collection and credit counseling and help people improve their credit ratings. DFCS protects businesses from misconduct by entities that collect bad debts from consumers.
- Inhibit money laundering by making it difficult to conceal the transmission of funds. There are 65 money transmitters licensed with DFCS.
- Ensure that the funeral services and merchandise paid for in advance are available in the consumer's time of need by regulating 208 prearranged funeral trust providers and 85 endowment care facilities. Program administration also ensures the stability of the Consumer Protection Trust Fund by providing fees to provide protection for consumers if providers fail to pay for services.
- Protect Oregonians against excessive charges and exposure to fenced stolen property by licensing and examining 43 pawnbrokers.

Accomplishments, 2005-2007

1. Consumer Protection and Outreach

Consumers are better protected and have better information to make sound financial decisions as a result of several DFCS actions. For example, the division:

- Initiated a special project to look at concerns related to the high cost of being poor. DFCS has met with consumer groups, business representatives, and government officials that resulted in a number of legislative bills introduced in the 2007 session to address short-term lending, check cashing, and high-interest consumer finance loans.
- Coordinated with credit unions to provide consumers looking for low-cost payday loan alternatives a toll-free number and Web site to easily seek a participating Oregon credit union that provides these products. From August to December 2006, more than 1,600 consumers, from 11 Oregon counties, called the toll-free number seeking payday loan alternative information. During the same period, the Web site received more than 2,000 hits.
- Conducted 108 presentations to more than 6,300 people throughout the state highlighting fraud-prevention and consumer-protection information related to mortgage lending, financial investing, and identity theft. The division also has publications available to consumers on a variety of investment and finance-related topics.
- Established stakeholder advisory committees to review statutes and administrative rules related to pre-need funeral trusts, consumer finance companies, debt consolidation

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agencies, banks and trusts, and credit unions. The division is using feedback from the committees to revise rules for those programs.

- Developed new rules that more accurately define the type of lending business that can be carried out under a “conventional” consumer finance license and close potential gaps left by the new payday lending legislation. The rules will protect consumers from high-cost loans.
- Adopted administrative rules in mortgage lending that define diligent supervision of loan originators by mortgage brokers and create stricter education requirements for loan originators. Also adopted guidelines for state-regulated lenders to help loan salespeople better determine if an adjustable rate mortgage, particularly ones that include payment options or interest only features, is appropriate for a consumer.
- Opened 1,305 complaints, 220 investigations, and 311 litigation files, and closed 1,694 files of all types in calendar years 2005 and 2006.
- Issued 206 cease-and-desist orders and imposed monetary penalties of more than \$4.9 million. These figures do not include restitution, which was often negotiated in lieu of penalties.
- Participated in more than 30 criminal prosecutions, which serve as a significant deterrent to white-collar crime, in 2005 and 2006.

2. Customer Service

Licenses and consumers can do more business with DFCS electronically, saving time and money. The division:

- Continued transition to electronic application, renewal, and payment processes.
- Promoted the use of electronic complaint filing.
- Improved and updated the division Web site, making it easier for users to locate information and allow stakeholders and consumers to receive automatic e-mails informing them of changes to a specific topic.

3. Supervision of Regulated Entities

DFCS’ supervision of regulated entities helps ensure their solvency. No financial institution has failed since the 1980s. In 2005-07, the division:

- Expanded exams of banks and credit unions to include additional monitoring of currency transactions related to the Bank Secrecy Act and anti-money laundering provisions of the USA Patriot Act.
- Continued implementation of risk-based examination of state-chartered institutions and licensed entities, which reduces the regulatory burden and provides a more accurate picture of compliance with laws and regulations. The division also has strengthened the exam process to ensure that state-regulated mortgage lenders and investment advisors are being examined in reasonable time frames and that loans and investments meet the needs and expectations of Oregonians.
- Focused broker-dealer exams on bank- and credit union-based brokerage activity. This helped ensure consumer protection in the variety of venues where securities may be sold and improved education for those broker-dealers.
- Expanded mortgage lending examinations to include out-of-state licensees.

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- Obtained annual trust fund reports from 33 irreducible fund cemeteries that had not filed reports previously, which will allow the division to monitor trust fund accounts.
- Expanded examinations of banks and credit unions to include data safeguards and information technology security.
- Participated with the Federal Reserve Bank on examinations of bank holding companies.

Anticipated results, 2007-2009

- Improve consumer protection in the mortgage lending industry by increasing the number of risk-based examinations, reviewing misleading advertising, and enforcing updated continuing education and diligent supervision requirements. The changes should reduce the number of problems experienced by consumers.
- Work with financial institutions to promote lower cost alternatives for consumers who are low income, have no traditional financial institution relationship, or have had problems with managing checking accounts.
- Implement statutory changes resulting from legislation proposed during the 2007 session to cap fees on check cashing, regulate Internet payday lenders, and protect against identity theft.
- Reduce the number of unlicensed pawnbrokers by contacting businesses suspected of conducting pawnbroker activities to make sure they are in compliance with legal requirements. The goal is to deter unlicensed activity and ensure consumers are protected and treated fairly.
- Monitor foreclosures in Oregon and develop strategies to reduce foreclosures due to misunderstanding of loan products by reviewing loan products during exams and expanding education for consumers with nontraditional loans.
- Continue ensuring the safety and soundness of state-chartered banks, credit unions, and trust companies.
- Increase compliance with licensing statutes by means of prompt investigation of reported violations and enforcement actions where warranted.
- Conduct more consumer outreach activities to help Oregonians avoid becoming victims of investment scams and predatory lending practices and to address investor and home buyer questions and concerns.
- Work to provide Oregon consumers with additional low-cost alternatives for short-term loans.
- Create an advisory committee to review the Consumer Finance Act and identify possible changes to the law to clarify and make it more effective.
- Expand the use of electronic licensing, renewal, and payment options for regulated entities.
- Continue outreach to licensees and industry trade associations through activities such as the Mortgage Lending Forum, roundtable discussions with CEOs, and program reviews.

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Key performance measures and related outcomes

The Division of Finance and Corporate Securities tracks key performance measures, which contribute to progress on the Department of Consumer & Business Services' three overall goals: to protect consumers and workers in Oregon, regulate in a manner that supports a positive business climate, and be accountable to the public it serves, with excellent service to customers.

- *Percent of regulated entities operating in compliance with the governing laws and regulations.* Target: 85.5 percent by 2007. Progress report: In 2006, 87.9 percent of regulated entities were operating in compliance with the governing laws and regulations, up from 84.7 percent in 2005.
- *Percent of DCBS customer surveys rating their experience with the department at the highest level.* Target: 50 percent by 2007. Progress report: In 2006, 85.6 percent of DCBS customers rated their experience with DFCS at the highest level.
- *Percent of timelines for key department activities that are met.* Target: 100 percent by 2009. Progress report: In 2006, DFCS met 94.5 percent of key timelines.
- *Percent of permanent rules adopted with stakeholder input.* Target: 100 percent. Progress report: In 2006, DFCS used stakeholder input when adopting rules 100 percent of the time.
- *Percent of cases closed that use alternative dispute resolution.* Target: 100 percent. Progress report: In 2006, DFCS used alternative dispute resolution in 100 percent of cases closed.

DFCS strives to protect the confidence of Oregonians that the businesses it regulates are operated honestly, fairly, and efficiently as well as to protect the right of Oregonians to participate in a financial services environment that is safe, sound, and equitable and protects against fraud and abuse.

The Division of Finance and Corporate Securities has five separate sections: Securities; Enforcement; Mortgage Lending; Nondepository Programs; and Banks, Trusts, and Credit Unions.

DFCS' Securities Program regulates those who sell securities and provide investment advice in Oregon, whether or not the companies are located in Oregon. The program also regulates public offerings of securities, accepts notice filings of federally covered securities in Oregon, and conducts office examinations of licensees with places of business in Oregon. The Securities Program generates surplus funds that are transferred to the General Fund. The Investor Information Program within Securities informs and educates consumers around the state, helping them identify and avoid fraudulent investments and make more informed investment decisions.

The Enforcement Unit investigates and takes administrative, civil, and criminal enforcement actions in cases involving securities fraud, mortgage lending, and DFCS' other program areas. The unit works with other state and federal regulators and law enforcement entities on many enforcement activities.

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The Mortgage Lending Program regulates mortgage bankers and brokers. It also has a consumer information program that provides information to the public, homeowners, and home buyers. Oversight includes in-state and out-of-state companies and loan originators. Regulation of mortgage lenders includes review of qualifications during licensing for new applicants and periodic examinations of lenders.

The Bank and Trust Companies Program and the Credit Union Program regulate financial institutions that are chartered by the State of Oregon. Review of charter applications ensures banks are well capitalized, have qualified personnel to run the daily operations and the board of directors, and have well thought-out business plans to grow and succeed. The programs conduct regular examinations of banks, trusts, and credit unions, sometimes in concert with the Federal Deposit Insurance Corporation and the National Credit Union Administration — which insure the deposits of these financial institutions — so that Oregonians can rely on their safety and soundness. Examinations ensure that the institution has appropriate levels of capital, assets, management, earnings performance, liquidity, and sensitivity to market risk so that individuals, businesses, and governmental units can confidently transact business with that institution.

Nondepository Programs include the regulation of 10 different types of businesses that provide a variety of financial services to Oregonians. These include consumer finance companies (including payday and title lenders), pawnbrokers, money transmitters, collection agencies, debt consolidation agencies, credit service organizations, prearranged funeral trusts, and endowment care providers. DFCS uses risk-based examinations and investigations to ensure compliance with consumer protection standards and with Oregon statutes and rules. DFCS also provides information to consumers about how to be wise users of these types of financial services.

Key Issues:

- To ensure that Oregonians are treated equitably by financial institutions and financial service providers.
- To ensure that Oregonians have access to needed financial services without compromising regulatory standards.
- To maintain “value added” regulation in a federal/state dual jurisdictional environment.
- To help businesses raise capital while maintaining marketplace “transparency” and full disclosure consumer protection.
- To ensure each dedicated program is self-supporting and costs flow to those who contribute to the costs.
- To maximize Internet and e-government opportunities.

Revenue Sources

- Annual assessments on regulated financial institutions
- Application, licensing, registration, and examination fees
- Investment income

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General Fund

The Division of Finance & Corporate Securities does not receive a General Fund appropriation. The division does transfer money from Securities Section financial penalties and excess authorized operating funds to the state General Fund. For the 2007-09 biennium the Securities Section estimates a \$19.1 million transfer to the General Fund for general governmental purposes.

Policy Package No. 161: Check Cashers

Governor's Recommended Budget \$126,962 – 1.00 FTE

Purpose

This policy package will allow licensing and regulation of check cashers to protect consumers against the level of fees charged to cash checks.

The substantive legislation (HB 2022):

- Creates a new regulatory program for persons who cash checks for a fee, including application, investigation of applicant, license fee, record keeping requirements, maximum fees that may be charged for cashing checks, and civil penalties or actions against a licensee for violations.
- Wholly exempts financial institutions; partially exempts licensed money transmitters and retailers whose check cashing fees are at or below \$2 or 2 percent of the face value of the check from specified provisions.
- Requires check cashers to conspicuously post their fee schedule and file the fee schedule with the director.
- Prohibits check-cashing businesses from disseminating misleading or deceptive information or operating their business at unlicensed locations.
- Limits check cashing fees to the greater of:
 - 2 percent or \$5 for checks or warrants issued by the U.S. government, the State of Oregon, or the city or county where the check is being cashed;
 - 3 percent or \$5 for payroll checks and all other government checks; and
 - 10 percent for all other checks, including personal checks.

The bill allows a check-cashing business to charge an extra one-half percent more for government and payroll checks if the consumer does not have valid and current government-issued photo identification, and the total fee for cashing any check could not exceed \$100.

- Grants the director rulemaking authority, including setting the fees for licensing and examinations.
- Authorizes the director to take action against a licensee, issue a civil penalty, or order restitution of excess fees charged.

How Achieved

To implement the regulation of check cashing, the Division of Finance and Corporate Securities is requesting a new financial examiner position that will perform licensing and enforcement functions. The examiner will be responsible for reviewing approximately 1,000 applications and or renewals per biennium, answering general questions, resolving complaints, and completing approximately 10 for-cause examinations per year.

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Staffing Impact

1 Position, 1.00 FTE

Revenue Source

This policy package is funded 100 percent by Other Funds. These funds will be generated through licensing fees for check cashers.

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Governor's Recommended Budget

	Request	FTE
2005-07 Legislatively Adopted Budget	\$ 10,765,946	64.00
Base Budget Adjustments		
Net Cost of 2005-07 Position Actions:		
Administrative, Biennialized E-Board, Phase-outs	\$ 571,172	(1.00)
Estimated Cost of 2007-09 Merit Increase	\$ 144,792	-
Subtotal: 2007-09 Base Budget	\$ 11,481,910	63.00
Essential Package 010 - Non-PICS Adjustments		
Vacancy factor adjustment.	\$ 49,416	-
Non-PICS adjustments for unemployment, overtime, temporaries, and mass transit taxes calculated as .006 of base salaries and wages.	\$ 6,221	-
Essential Package 021/022 - Phase in/out	\$ -	-
Essential Package 030 - Cost Adjustment for Inflation and Price List		
Cost of Goods & Services Increase/(Decrease)	\$ 74,926	-
Increase/shift in State Government Service Charges.	\$ 218,611	-
Essential Package 060 - Technical Adjustments	\$ -	-
Subtotal: 2007-09 Essential Budget Level	\$ 11,831,084	63.00
Policy Packages		
Policy Package 161 - Check Cashers	\$ 126,962	1.00
Total: 2007-09 Governor's Recommended Budget	\$ 11,958,046	64.00

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Revenues and Disbursements

2007-09 Beginning Balance		\$ 10,395,159
Revenues		
Business License & Fees	\$ 32,292,075	\$ -
Fines & Forfeitures	\$ 700,000	\$ -
Other Revenues	\$ 82,500	\$ -
Interest Income	\$ 944,571	\$ -
Subtotal Revenues		\$ 34,019,146
Transfers		
Transfer Out - Intrafund	\$ (2,148,272)	\$ -
Transfer Out - General Fund	\$ (19,165,489)	\$ -
Subtotal Transfers		\$ (21,313,761)
Available Funds		\$ 23,100,544
Budget		\$ 11,958,046
2007-09 Ending Balance		\$ 11,142,498