

# Enrolled House Bill 2240

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for State Board of Tax Practitioners)

CHAPTER .....

## AN ACT

Relating to authority of State Board of Tax Practitioners; amending ORS 673.685 and 673.730; limiting expenditures; and declaring an emergency.

### Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 673.685 is amended to read:

673.685. (1) *[The fees for licenses and registrations issued, renewed, reactivated or otherwise, and for examinations under ORS 673.605 to 673.740 shall be prescribed by]* The State Board of Tax Practitioners *[but shall not exceed the following]* **shall adopt by rule fees for:**

- [(1)] (a) *[For]* Application for examination for a tax consultant's license[, \$70].
- [(2)] (b) *[For]* Application for examination for a tax preparer's license[, \$40].
- [(3)] (c) *[For]* Issuance or renewal of a tax consultant's license[, \$75].
- [(4)] (d) *[For]* Issuance or renewal of a tax preparer's license[, \$65].
- [(5)] (e) *[For]* Issuance or renewal of a tax consultant's inactive license[, \$50].
- [(6)] (f) *[For]* Issuance or renewal of a tax preparer's inactive license[, \$35].
- [(7)] (g) *[For]* Reactivation of a tax consultant's inactive license[, \$75; *for]* **or** reactivation of a tax preparer's inactive license[, \$65].
- [(8)] (h) *[For]* Restoration of lapsed license[, \$25].
- [(9)] (i) *[For]* Issuance or replacement of a duplicate license[, \$10].
- [(10)] (j) *[For]* Issuance of a replacement or duplicate tax consultant certificate[, \$15].
- [(11)] (k) *[For]* Registration or registration renewal for a sole proprietorship, partnership, corporation or other legal entity[, \$95].
- [(12)] (l) *[For]* Issuance or renewal of a combined tax consultant's or tax preparer's license and registration for a sole proprietorship, partnership, corporation or other legal entity[, \$120]. Eligibility for a combined license shall be determined under rules adopted by the board.
- [(13)] (m) *[For]* Annual registration of a branch office of a sole proprietorship, partnership, corporation or other legal entity[, \$5].

**(2) The fees established by the State Board of Tax Practitioners under this section are subject to the prior approval of the Oregon Department of Administrative Services and, if their adoption occurs between regular sessions of the Legislative Assembly, a report to the Emergency Board. The fees may not exceed the cost of administering the regulatory program of the State Board of Tax Practitioners pertaining to the purposes for which the fees are established, as authorized by the Legislative Assembly within the board's budget, as that budget may be modified by the Emergency Board.**

**SECTION 2.** ORS 673.730 is amended to read:

673.730. The State Board of Tax Practitioners shall have the following powers, in addition to the powers otherwise granted by ORS 673.605 to 673.740, and shall have all powers necessary or proper to carry the granted powers into effect:

(1) To determine qualifications of applicants for licensing as a tax consultant or a tax preparer in this state; to cause examinations to be prepared, conducted and graded; and to issue licenses to qualified applicants upon their compliance with ORS 673.605 to 673.740 and the rules of the board.

(2)(a) To restore the license of any tax consultant or preparer whose license has been suspended or revoked.

(b) The power of the board to suspend any license under ORS 673.700 includes the power to restore:

(A) At a time certain; or

(B) When the person subject to suspension fulfills conditions for reissuance set by the board.

(c) The power of the board to restore a license under paragraph (a) of this subsection specifically includes the power to restore a license suspended or revoked for the reason that the person has been convicted of a crime. In making a determination to restore a license, the board shall consider the relationship of the facts which supported the conviction to the code of professional conduct and all intervening circumstances in determining the fitness of the person to receive or hold a tax consultant's or tax preparer's license.

[3] *To prescribe fees, subject to ORS 673.685, and to collect fees.*]

[4] (3) To investigate alleged violations of ORS 673.605 to 673.740, or any rule or order adopted thereunder. The board may keep information gathered pursuant to an investigation by the board confidential until there is a final order or determination by the board, unless disclosure is considered necessary by the board for the investigation or prosecution of an alleged violation of ORS 673.605 to 673.740, or any rule or order adopted thereunder. The board may keep personal financial information gathered pursuant to an investigation by the board confidential after a final order or determination by the board, unless disclosure is considered necessary by the board for the investigation or prosecution of an alleged violation of ORS 673.605 to 673.740, or any rule or order adopted thereunder. For purposes of this subsection, personal financial information includes but is not limited to tax returns.

[5] (4) To enforce the provisions of ORS 673.605 to 673.740 and to exercise general supervision over tax consultant and tax preparer practice.

[6] (5) To issue an order directed to a person to cease and desist from any violation or threatened violation of ORS 673.615, 673.643, 673.705 or 673.712, or any rule or order adopted thereunder, if the board has reason to believe that a person has been engaged, is engaging or is about to engage in any violation of ORS 673.615, 673.643, 673.705 or 673.712, or any rule or order adopted thereunder.

[7] (6) To assess civil penalties within a cease and desist order issued under subsection [(6)] (5) of this section if the board has reason to believe that a person has been engaged or is engaging in any violation of ORS 673.615, 673.643, 673.705 or 673.712, or any rule or order adopted thereunder. The civil penalty may not exceed \$5,000 per violation.

[8] (7) To formulate a code of professional conduct for tax consultants and tax preparers.

[9] (8) To assess against the licensee or any other person found guilty of violating any provision of ORS 673.605 to 673.740, or any rule or order adopted thereunder, in addition to any other sanctions, the costs associated with the disciplinary or other action taken by the board.

[(10)] (9) To order that any person who has engaged in or is engaging in any violation of ORS 673.605 to 673.740, or any rule or order adopted thereunder, shall offer to rescind and pay restitution to anyone harmed by the violation who seeks rescission.

**(10) To adopt rules pursuant to ORS chapter 183 necessary to carry out the provisions of ORS 673.605 to 673.740.**

**SECTION 3. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 1, chapter \_\_\_\_\_, Oregon Laws 2007 (Enrolled House Bill 5045), for the biennium beginning July 1, 2007, as the maximum limit for payment of expenses**

from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by the State Board of Tax Practitioners, is increased by \$100,549.

**SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by House April 18, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 4, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State