

# House Bill 2346

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon Collectors Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires certain collection agencies to maintain business office and keep certain records within this state. Removes rulemaking as procedure whereby Director of Department of Consumer and Business Services may exempt collection agencies from certain requirements.

Becomes operative on July 1, 2008.

## A BILL FOR AN ACT

1  
2 Relating to collection agencies; creating new provisions; and amending ORS 697.058.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 697.058 is amended to read:

5 697.058. (1) [*Except as provided in subsection (9) of this section,*] Every collection agency shall  
6 keep a record of all sums collected by it, and of all disbursements made by it, and shall maintain  
7 and keep all such records and all customers' funds within this state. Collection agencies shall  
8 maintain accounting records of collections for and payments to customers for a period of six years  
9 from the date of the last entry thereon. Collection agencies shall keep other records for a period  
10 of two years from the date of the last entry thereon. Collection agencies, or any employee thereof,  
11 shall not intentionally make any false entry in any collection agency record or intentionally  
12 mutilate, destroy or otherwise dispose of any such record within the time limits provided in this  
13 section. This subsection does not apply to out-of-state collection agencies.

14 (2) [*Except as provided in subsection (9) of this section,*] Every collection agency shall establish  
15 and maintain a regular, active business office in this state for the purpose of conducting business  
16 in this state. The office shall be open to the public during reasonable, stated business hours. This  
17 subsection does not apply to out-of-state collection agencies.

18 (3) A collection agency shall not commingle the money of customers with other moneys.

19 (4) Except as provided in subsection (9) of this section, a collection agency shall maintain a  
20 separate trust account in this state for customers' funds and shall keep funds in such trust account  
21 until disbursed to the customer. This subsection does not apply to out-of-state collection agencies.

22 (5) Except as provided in subsection (9) of this section, every collection agency that requires  
23 customers to pay an amount for services prior to the time that the services are rendered shall  
24 maintain a separate trust account in this state for prepayments and shall keep prepayment funds in  
25 the trust account for 180 days or until the services for which prepayment is made are performed,  
26 whichever occurs first.

27 (6) Every collection agency, within 30 days after the close of each calendar or fiscal month, shall  
28 report and pay to its customers the net proceeds due and payable of all collections made during that  
29 calendar or fiscal month. When the net proceeds are less than \$5 at the end of any calendar or fiscal  
30 month, payments may be deferred for a period not to exceed three months.

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (7) Upon the motion of the Director of the Department of Consumer and Business Services or  
 2 upon receipt of a complaint by a customer of the collection agency, the director may audit the col-  
 3 lection agency's trust accounts with respect to any violation by the collection agency of this section.  
 4 If the director finds any discrepancy in the trust accounts, the director also may audit the operating  
 5 account of the collection agency. The collection agency shall pay the reasonable cost of an audit  
 6 under this section, as determined by the director.

7 (8) If a collection agency does not pay the cost of the audit determined under subsection (7) of  
 8 this section, the director may assign the delinquent account to the Department of Revenue for col-  
 9 lection in the manner that other debts are collected under ORS 293.250.

10 (9) The director, by [*rule or*] order, may exempt a collection agency from the requirements of  
 11 subsection [(1), (2),] (4) or (5) of this section if the collection agency:

12 (a) Satisfies the director that the books, records and trust accounts of the collection agency may  
 13 be examined by the director without undue delay or expense;

14 (b) Provides for timely and convenient remittance of debtor payments and funds owed to the  
 15 customer; and

16 (c) Complies with all conditions the director may require relating to additional bonding re-  
 17 quirements and to provisions for auditing financial statements of trust accounts, receiving payments  
 18 from and communicating with debtors, and remitting funds to customers.

19 **SECTION 2. The amendments to ORS 697.058 by section 1 of this 2007 Act apply to all**  
 20 **collection agencies operating in this state on or after the effective date of this 2007 Act.**

21 **SECTION 3. The amendments to ORS 697.058 by section 1 of this 2007 Act become oper-**  
 22 **ative on July 1, 2008.**

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