

Enrolled
House Bill 2355

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 Board of Governors of the Oregon State Bar)

CHAPTER

AN ACT

Relating to client security fund; amending ORS 9.655.

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

SECTION 1. ORS 9.655 is amended to read:

9.655. (1) Upon the filing of a claim, verified under oath, by a client claiming a pecuniary loss *[under ORS 9.625]* **payable from the client security fund**, the board of governors or its designated representative shall determine if the person named in the claim as the attorney whose dishonest conduct caused the loss was an active member of the Oregon State Bar engaged in the practice of law in Oregon at the time of the transaction out of which the claim arose and whether the transaction arose out of the person's practice of law in Oregon. The board or designated representative shall then determine **whether the loss was caused by the person's dishonest conduct and** if the person:

(a) Has been found guilty of a crime arising out of the *[claimed]* dishonest conduct *[which caused the loss]*;

(b) In the case of a claim of loss of \$5,000 or less, has been disbarred, suspended or reprimanded in disciplinary proceedings or has resigned from the bar due to circumstances arising out of the *[claimed]* dishonest conduct *[which caused the loss]*; or

(c) *[Has been the object of a judgment entered in any proceeding arising out of the claimed dishonest conduct which caused the loss and, if the object of a judgment for money entered in favor of the claimant, has failed to pay the judgment,]* **Is a judgment debtor under the money award portion of a judgment entered in favor of the client in a proceeding arising out of the dishonest conduct**, and execution issued on the judgment has been returned uncollected or *[that]* issuance of execution would be a useless act.

(2) *[After complying with subsection (1) of this section, if the board or representative requires additional information to determine the claim,]* **At any time after a claim is filed by a client claiming a pecuniary loss payable from the client security fund**, the board or the **board's** representative may compel by subpoena the person named in the claim as the attorney whose dishonest conduct caused the loss, or any other person having knowledge of the matter, to appear for the purpose of giving testimony, and may compel by subpoena the production of records and documents pertinent to the claim. The subpoena shall have the same force and effect as in a civil action in the circuit court, and may be enforced by order of the circuit court for the county in which the person was served.

Passed by House February 8, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate March 26, 2007

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President of Senate

Received by Governor:

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

Approved:

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Governor

Filed in Office of Secretary of State:

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

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Secretary of State