

HOUSE AMENDMENTS TO HOUSE BILL 2871

By COMMITTEE ON CONSUMER PROTECTION

April 30

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and lines 3 and 4
2 and insert “725.010, 725.045, 725.340, 725.345, 725.347, 725.505, 725.610, 725.615, 725.620 and 725.622;
3 repealing ORS 725.625 and section 4, chapter 3, Oregon Laws 2006; and declaring an emergency.”.

4 After line 5, insert:

5 “**SECTION 1.** ORS 725.010 is amended to read:

6 “725.010. As used in this chapter:

7 “[*(1) ‘Department’ means the Department of Consumer and Business Services.*]

8 “**(1)(a) ‘Broker or facilitator’ means a person that conducts a business in which, for a fee
9 or consideration, the person:**

10 “**(A) Processes, receives or accepts for delivery to a lender an application for a loan, in-
11 dividually or in conjunction or cooperation with another person;**

12 “**(B) Accepts and delivers to a lender all or most of the proceeds of a payment made in
13 connection with a loan; or**

14 “**(C) Assists in making a loan in a material capacity other than as a lender.**

15 “**(b) ‘Broker or facilitator’ does not include a mortgage broker or loan originator, as
16 those terms are defined in ORS 59.840, or an employee of a licensee.**

17 “**(2) ‘Consumer finance loan’ means a loan or line of credit that is unsecured or secured
18 by personal or real property and that has periodic payments and terms longer than 60 days.**

19 “[*(2) ‘Director’ means the Director of the Department of Consumer and Business Services.*]

20 “**(3) ‘Licensee’ means [every] a person licensed under this chapter.**

21 “**SECTION 2.** ORS 725.045 is amended to read:

22 “725.045. **(1) [No person, without first obtaining a license under this chapter, shall make a con-
23 sumer loan of \$50,000 or less, except as provided under ORS 82.010, 82.020 and 82.025.] Without first
24 obtaining a license under this chapter, a person may not conduct a business in which the
25 person makes a loan described in subsection (2) of this section or acts as an agent, broker
26 or facilitator for a person that makes a loan described in subsection (2) of this section, ex-
27 cept as provided under ORS 82.010, 82.020 and 82.025.**

28 “**(2) This section applies to loans of \$50,000 or less that are:**

29 “**(a) Payday loans, as defined in ORS 725.600;**

30 “**(b) Title loans, as defined in ORS 725.600; or**

31 “**(c) Consumer finance loans.**

32 “**(3) This section does not apply to a person that does not collect a fee or consideration
33 in connection with a loan described in subsection (2) of this section or an application for a
34 loan described in subsection (2) of this section and that:**

35 “**(a) Does not interact directly with a borrower or consumer;**

1 “(b) Acts solely as an intermediary between the borrower or consumer and a lender or
2 a person that conducts business as a broker or facilitator for a loan described in subsection
3 (2) of this section;

4 “(c) Transmits information, electronically or otherwise, concerning the borrower or
5 consumer to a lender or a person that conducts business as a broker or facilitator for a loan
6 described in subsection (2) of this section; or

7 “(d) Prepares, issues or delivers a negotiable instrument to a lender or a person that
8 conducts business as a broker or facilitator for a loan described in subsection (2) of this
9 section for subsequent delivery to a borrower or consumer.”.

10 In line 6, delete “1” and insert “3”.

11 Delete lines 11 through 15 and insert:

12 “(1) Except as provided in ORS 725.615 and 725.622, a licensee may:

13 “(a) Charge, contract for and receive in connection with a consumer finance loan made in ac-
14 cordance with this chapter a finance charge that, when expressed as an annual percentage rate,
15 does not exceed 36 percent. For purposes of this paragraph, ‘finance charge’ and ‘annual percentage
16 rate’ have the meanings given those terms in the federal Truth in Lending Act, 15 U.S.C. 1601 et
17 seq.

18 “(b) Contract for and receive in connection with a consumer finance loan made in accordance
19 with this chapter, and in addition to the finance charge described in paragraph (a) of this subsection,
20 other reasonable and bona fide fees, expenses or damages, subject to oversight and regulation by the
21 Department of Consumer and Business Services. For purposes of this paragraph, ‘fees, expenses or
22 damages’ includes, but is not limited to:

23 “(A) Items exempted from the computation of the finance charge in accordance with the Truth
24 in Lending Act, 15 U.S.C. 1605(d) and (e), as that Act existed on the effective date of this 2007 Act,
25 and similar pass-through fees or charges;

26 “(B) Prepayment fees and late fees;

27 “(C) Fees and damages in accordance with ORS 30.701;

28 “(D) Actual expenses the licensee reasonably incurs in collecting a consumer finance loan that
29 the borrower or consumer has failed to repay according to the terms of the consumer finance loan
30 contract; and

31 “(E) Amounts associated with the collection of a defaulted loan that are authorized by statute
32 or awarded by a court of law.”.

33 On page 2, line 9, after “(1)” insert “(a)”.

34 In line 10, delete “Federal Consumer Credit Protection (Truth-in-Lending) Act” and insert “fed-
35 eral Truth in Lending Act”.

36 In line 41, delete “2” and insert “4”.

37 On page 3, line 43, delete “3” and insert “5”.

38 On page 4, line 14, delete “4” and insert “6”.

39 In line 19, after “establish” delete the rest of the line and insert “loan forms, terms, charges and
40 fees.”.

41 After line 21, insert:

42 “**SECTION 7.** ORS 725.610 is amended to read:

43 “725.610. A person may not act as an agent, **broker** or facilitator for the purpose of making a
44 title or payday loan without first obtaining a license under this chapter, regardless of whether the
45 principal making the loan is required to obtain a license.”.

1 In line 22, delete “5” and insert “8”.

2 On page 5, after line 21, insert:

3 “(3) The provisions of ORS 725.600 to 725.625 do not prevent a lender from recovering amounts
4 associated with the collection of a defaulted loan that are authorized by statute or awarded by a
5 court of law.

6 “**SECTION 9.** ORS 725.620 is amended to read:

7 “725.620. (1) A lender in the business of making title loans shall include in every title loan
8 contract a notice, printed in type size equal to at least 12-point type, stating that the consumer or
9 the consumer’s attorney may file a complaint with the Director of the Department of Consumer and
10 Business Services as provided in this section.

11 “(2) Any person claiming to be aggrieved by a practice that violates a provision of ORS 725.605,
12 725.610 or 725.615 or any rule adopted under ORS [725.625] **725.505 regulating a lender in the**
13 **business of making title loans**, or the person’s attorney, may file with the director a verified
14 complaint in writing. The person shall state in the complaint the name and address of the lender
15 alleged to have committed the unlawful practice and the particulars of the alleged unlawful practice.
16 The director may require the person to set forth in the complaint other information that the director
17 considers pertinent. The person may file the complaint no later than one year after the alleged un-
18 lawful practice.

19 “(3) After the filing of a complaint under this section, the director may cause an investigation
20 to be made under ORS 725.310.”

21 In line 22, delete “6” and insert “10”.

22 On page 6, line 4, after “(2)” insert “(a)”.

23 In line 7, after the period begin a new paragraph and insert “(b)”.

24 Delete lines 13 through 22 and insert:

25 “(3) The provisions of ORS 725.600 to 725.625 do not prevent a lender from recovering amounts
26 associated with the collection of a defaulted loan that are authorized by statute or awarded by a
27 court of law.

28 “**SECTION 11.** ORS 725.625 and section 4, chapter 3, Oregon Laws 2006, are repealed.

29 “**SECTION 12.** The amendments to ORS 725.010, 725.045, 725.340, 725.345, 725.347, 725.505,
30 725.610, 725.615, 725.620 and 725.622 by sections 1 to 10 of this 2007 Act apply to loans made
31 or renewed on or after July 1, 2007.”

32 In line 23, delete “10” and insert “13”.

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