

B-Engrossed
Senate Bill 583

Ordered by the Senate June 21
Including Senate Amendments dated April 30 and June 21

Sponsored by Senator PROZANSKI; Representative CLEM (at the request of Governor Theodore R. Kulongoski)

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.

Requires person that owns, maintains or possesses data that includes consumer's personal information and is used in person's business, vocation, occupation or volunteer activities to notify consumer following discovery of breach of security if personal information is included in data for which security was breached. Specifies notification methods and lists exemptions from notification requirements.

Permits consumer to place security freeze on consumer report if consumer provides certain information and pays any required fee. Specifies time in which consumer reporting agency must place freeze and send confirmation of freeze to consumer. Permits consumer to temporarily lift or permanently remove security freeze by complying with certain procedures. Specifies conditions in which consumer reporting agency may lift or remove freeze. Specifies exemptions from requirement to place freeze. Requires consumer reporting agency to notify consumer of any change in consumer report that has freeze in place.

Prohibits person from printing consumer's Social Security number on materials not requested by consumer or part of transaction unless Social Security number is redacted, except in specified circumstances.

Requires person that owns, maintains or possesses data that includes consumer's personal information to implement security program for data. Specifies requirements for security program.

Permits Department of Consumer and Business Services to investigate violations of Act, require filing of statements, administer oaths and affirmations, issue subpoenas and otherwise take evidence for investigation. Permits department to issue cease and desist orders, require payment of restitution or compensation and assess penalty of not more than \$1,000 for each violation.

Permits Department of Consumer and Business Services to adopt rules to implement and enforce Act.

Increases biennial limitation on expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by department for purpose of carrying out provisions of Act.

Declares emergency, effective October 1, 2007.

A BILL FOR AN ACT

1
2 Relating to the Oregon Consumer Theft Protection Act; limiting expenditures; and declaring an
3 emergency.

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

5 **SECTION 1. This 2007 Act shall be known as the Oregon Consumer Identity Theft Pro-**
6 **tection Act.**

7 **SECTION 2. As used in this 2007 Act:**

8 **(1)(a) "Breach of security" means unauthorized acquisition of computerized data that**
9 **materially compromises the security, confidentiality or integrity of personal information**
10 **maintained by the person.**

11 **(b) "Breach of security" does not include good-faith acquisition of personal information**
12 **by a person or that person's employee or agent for a legitimate purpose of that person if the**
13 **personal information is not used in violation of applicable law or in a manner that harms or**

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 poses an actual threat to the security, confidentiality or integrity of the personal informa-
2 tion.

3 (2) "Consumer" means an individual who is also a resident of this state.

4 (3) "Consumer report" means a consumer report as described in section 603(d) of the
5 federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)), as that Act existed on the effective
6 date of this 2007 Act, that is compiled and maintained by a consumer reporting agency.

7 (4) "Consumer reporting agency" means a consumer reporting agency as described in
8 section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(p)) as that Act existed
9 on the effective date of this 2007 Act.

10 (5) "Debt" means any obligation or alleged obligation arising out of a consumer trans-
11 action, as defined in ORS 646.639.

12 (6) "Encryption" means the use of an algorithmic process to transform data into a form
13 in which the data is rendered unreadable or unusable without the use of a confidential pro-
14 cess or key.

15 (7) "Extension of credit" means the right to defer payment of debt or to incur debt and
16 defer its payment offered or granted primarily for personal, family or household purposes.

17 (8) "Identity theft" has the meaning set forth in ORS 165.800.

18 (9) "Identity theft declaration" means a completed and signed statement documenting
19 alleged identity theft, using the form available from the Federal Trade Commission, or an-
20 other substantially similar form.

21 (10) "Person" means any individual, private or public corporation, partnership, cooper-
22 ative, association, estate, limited liability company, organization or other entity, whether or
23 not organized to operate at a profit, or a public body as defined in ORS 174.109.

24 (11) "Personal information":

25 (a) Means a consumer's first name or first initial and last name in combination with any
26 one or more of the following data elements, when the data elements are not rendered unus-
27 able through encryption, redaction or other methods, or when the data elements are en-
28 crypted and the encryption key has also been acquired:

29 (A) Social Security number;

30 (B) Driver license number or state identification card number issued by the Department
31 of Transportation;

32 (C) Passport number or other United States issued identification number; or

33 (D) Financial account number, credit or debit card number, in combination with any re-
34 quired security code, access code or password that would permit access to a consumer's fi-
35 nancial account.

36 (b) Means any of the data elements or any combination of the data elements described
37 in paragraph (a) of this subsection when not combined with the consumer's first name or
38 first initial and last name and when the data elements are not rendered unusable through
39 encryption, redaction or other methods, if the information obtained would be sufficient to
40 permit a person to commit identity theft against the consumer whose information was
41 compromised.

42 (c) Does not include information, other than a Social Security number, in a federal, state
43 or local government record that is lawfully made available to the public.

44 (12) "Redacted" means altered or truncated so that no more than the last four digits of
45 a Social Security number, driver license number, state identification card number, account

1 number or credit or debit card number is accessible as part of the data.

2 (13) "Security freeze" means a notice placed in a consumer report, at the request of a
3 consumer and subject to certain exemptions, that prohibits the consumer reporting agency
4 from releasing the consumer report for the extension of credit unless the consumer has
5 temporarily lifted or removed the freeze.

6 **SECTION 3.** (1) Any person that owns, maintains or otherwise possesses data that in-
7 cludes a consumer's personal information that is used in the course of the person's business,
8 vocation, occupation or volunteer activities and was subject to a breach of security shall give
9 notice of the breach of security following discovery of such breach of security, or receipt of
10 notification under subsection (2) of this section, to any consumer whose personal information
11 was included in the information that was breached. The disclosure notification shall be made
12 in the most expeditious time possible and without unreasonable delay, consistent with the
13 legitimate needs of law enforcement as provided in subsection (3) of this section, and con-
14 sistent with any measures necessary to determine sufficient contact information for the
15 consumers, determine the scope of the breach and restore the reasonable integrity, security
16 and confidentiality of the data.

17 (2) Any person that maintains or otherwise possesses personal information on behalf of
18 another person shall notify the owner or licensor of the information of any breach of secu-
19 rity immediately following discovery of such breach of security if a consumer's personal in-
20 formation was included in the information that was breached.

21 (3) The notification to the consumer required by this section may be delayed if a law
22 enforcement agency determines that the notification will impede a criminal investigation and
23 that agency has made a written request that the notification be delayed. The notification
24 required by this section shall be made after that law enforcement agency determines that its
25 disclosure will not compromise the investigation and notifies the person in writing.

26 (4) For purposes of this section, notification to the consumer may be provided by one of
27 the following methods:

28 (a) Written notice.

29 (b) Electronic notice if the person's customary method of communication with the con-
30 sumer is by electronic means or is consistent with the provisions regarding electronic re-
31 cords and signatures set forth in the Electronic Signatures in Global and National Commerce
32 Act (15 U.S.C. 7001) as that Act existed on the effective date of this 2007 Act.

33 (c) Telephone notice, provided that contact is made directly with the affected consumer.

34 (d) Substitute notice, if the person demonstrates that the cost of providing notice would
35 exceed \$250,000, that the affected class of consumers to be notified exceeds 350,000, or if the
36 person does not have sufficient contact information to provide notice. Substitute notice
37 consists of the following:

38 (A) Conspicuous posting of the notice or a link to the notice on the Internet home page
39 of the person if the person maintains one; and

40 (B) Notification to major statewide television and newspaper media.

41 (5) Notice under this section shall include at a minimum:

42 (a) A description of the incident in general terms;

43 (b) The approximate date of the breach of security;

44 (c) The type of personal information obtained as a result of the breach of security;

45 (d) Contact information of the person subject to this section;

1 (e) Contact information for national consumer reporting agencies; and

2 (f) Advice to the consumer to report suspected identity theft to law enforcement, in-
3 cluding the Federal Trade Commission.

4 (6) If a person discovers a breach of security affecting more than 1,000 consumers that
5 requires disclosure under this section, the person shall notify, without unreasonable delay,
6 all consumer reporting agencies that compile and maintain reports on consumers on a na-
7 tionwide basis of the timing, distribution and content of the notification given by the person
8 to the consumers. In no case shall a person that is required to make a notification required
9 by this section delay any notification in order to make the notification to the consumer re-
10 porting agencies. The person shall include the police report number, if available, in its no-
11 tification to the consumer reporting agencies.

12 (7) Notwithstanding subsection (1) of this section, notification is not required if, after an
13 appropriate investigation or after consultation with relevant federal, state or local agencies
14 responsible for law enforcement, the person determines that no reasonable likelihood of
15 harm to the consumers whose personal information has been acquired has resulted or will
16 result from the breach. Such a determination must be documented in writing and the doc-
17 umentation must be maintained for five years.

18 (8) This section does not apply to:

19 (a) A person that complies with the notification requirements or breach of security pro-
20 cedures that provide greater protection to personal information and at least as thorough
21 disclosure requirements pursuant to the rules, regulations, procedures, guidance or guide-
22 lines established by the person's primary or functional federal regulator.

23 (b) A person that complies with a state or federal law that provides greater protection
24 to personal information and at least as thorough disclosure requirements for breach of se-
25 curity of personal information than that provided by this section.

26 (c) A person that is subject to and complies with regulations promulgated pursuant to
27 Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 to 6809) as that Act existed
28 on the effective date of this 2007 Act.

29 **SECTION 4.** (1) A consumer may elect to place a security freeze on the consumer's
30 consumer report by sending a written request to a consumer reporting agency at an address
31 designated by the agency to receive such requests, or a secure electronic request at a
32 website designated by the agency to receive such requests if such method is made available
33 by the consumer reporting agency at the agency's discretion.

34 (2) If the consumer is the victim of identity theft or has reported to a law enforcement
35 agency the theft of personal information, the consumer may include a copy of the police re-
36 port, incident report or identity theft declaration.

37 (3) The consumer must provide proper identification and any fee authorized by section 6
38 of this 2007 Act.

39 (4) Except as provided in section 8 of this 2007 Act, if a security freeze is in place, in-
40 formation from a consumer report may not be released without prior express authorization
41 from the consumer.

42 (5) This section does not prevent a consumer reporting agency from advising a third
43 party that a security freeze is in effect with respect to the consumer report.

44 **SECTION 5.** (1) A consumer reporting agency shall place a security freeze on a consumer
45 report no later than five business days after receiving from the consumer:

1 (a) The request described in section 4 (1) of this 2007 Act;

2 (b) Proper identification; and

3 (c) A fee, if applicable.

4 (2) The consumer reporting agency shall send a written confirmation of the security
5 freeze to the consumer, to the last known address for the consumer as contained in the
6 consumer report maintained by the consumer reporting agency, within ten business days
7 after placing the freeze and, with the confirmation, shall provide the consumer with a unique
8 personal identification number or password or similar device to be used by the consumer
9 when providing authorization for release of the consumer's consumer report for a specific
10 period of time or for permanently removing the security freeze. The consumer reporting
11 agency shall also include with such written confirmation information regarding the process
12 of lifting a freeze, and the process of temporarily lifting a freeze for allowing access to in-
13 formation from the consumer's credit report for a period of time while the freeze is in place.

14 (3) If a consumer wishes to allow the consumer's consumer report to be accessed for a
15 specific period of time while a freeze is in effect, the consumer shall contact the consumer
16 reporting agency using a point of contact designated by the consumer reporting agency, re-
17 quest that the freeze be temporarily lifted and provide the following:

18 (a) Proper identification;

19 (b) The unique personal identification number or password or similar device provided by
20 the consumer reporting agency pursuant to subsection (2) of this section;

21 (c) The information regarding the time period for which the consumer report shall be
22 available to users of the credit report; and

23 (d) A fee, if applicable.

24 (4) A consumer reporting agency that receives a request from the consumer to tempo-
25 rarily lift a freeze on a credit report pursuant to subsection (3) of this section shall comply
26 with the request no later than three business days after receiving from the consumer:

27 (a) Proper identification;

28 (b) The unique personal identification number or password or similar device provided by
29 the consumer reporting agency pursuant to subsection (2) of this section;

30 (c) The information regarding the time period for which the consumer report shall be
31 available; and

32 (d) A fee, if applicable.

33 (5) A security freeze shall remain in place until the consumer requests, using a point of
34 contact designated by the consumer reporting agency, that the security freeze be removed.
35 A consumer reporting agency shall remove a security freeze within three business days of
36 receiving a request for removal from the consumer, who provides:

37 (a) Proper identification;

38 (b) The unique personal identification number or password or similar device provided by
39 the consumer reporting agency pursuant to subsection (2) of this section; and

40 (c) A fee, if applicable.

41 (6) No later than December 31, 2008, the Director of the Department of Consumer and
42 Business Services shall report to the chairs of the legislative committees that considered
43 this 2007 Act concerning the minimum amount of time necessary, using current technology,
44 to place, temporarily lift or remove a freeze on a consumer report, and to verify a consum-
45 er's identity. If the chair of any legislative committee is vacant at the time of making the

1 report, the report shall also be made to the President of the Senate and the Speaker of the
2 House of Representatives.

3 **SECTION 6.** (1) A consumer reporting agency may not charge a fee to a consumer who
4 is the victim of identity theft or who has reported to a law enforcement agency the theft of
5 personal information, provided the consumer has submitted to the consumer reporting
6 agency a copy of a valid police report, incident report or identity theft declaration.

7 (2) A consumer reporting agency may charge a reasonable fee of no more than \$10 to a
8 consumer, other than a consumer described in subsection (1) of this section, for each freeze,
9 temporary lift of the freeze, removal of the freeze or replacing a lost personal identification
10 number or password previously provided to the consumer, regarding access to a consumer
11 credit report.

12 **SECTION 7.** A consumer reporting agency shall temporarily lift or remove a freeze
13 placed on a consumer's credit report only in the following cases:

14 (1) Upon the consumer's request, pursuant to section 5 (3) or (5) of this 2007 Act.

15 (2) If the consumer's credit report was frozen due to a material misrepresentation of fact
16 by the consumer, the consumer reporting agency may remove the security freeze. If a con-
17 sumer reporting agency intends to remove a freeze upon a consumer's credit report pursuant
18 to this subsection, the consumer reporting agency shall notify the consumer in writing at
19 least five business days prior to removing the freeze placed on the consumer report.

20 **SECTION 8.** The provisions of sections 4 to 6 of this 2007 Act do not apply to the use of
21 a consumer report by or for any of the following:

22 (1) A person, or the person's subsidiary, affiliate, agent or assignee with which the con-
23 sumer has or, prior to assignment, had an account, contract or debtor-creditor relationship
24 for the purposes of reviewing the account or collecting the financial obligation owing for the
25 account, contract or debtor-creditor relationship. For purposes of this subsection, "reviewing
26 the account" includes activities related to account maintenance, monitoring, credit line in-
27 creases and account upgrades and enhancements;

28 (2) Any person acting pursuant to a judgment, court order, warrant or subpoena;

29 (3) A federal, state or local governmental entity, including a law enforcement agency or
30 court, or their agents or assignees, acting to investigate fraud or acting to investigate or
31 collect delinquent taxes or unpaid judgments or court orders or to fulfill their statutory or
32 regulatory duties provided such responsibilities are consistent with a permissible purpose
33 under section 604 of the federal Fair Credit Reporting Act (15 U.S.C. 1681b) as that Act ex-
34 isted on the effective date of this 2007 Act;

35 (4) The use of credit information for the purposes of prescreening as provided by the
36 federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) as that Act existed on the effective
37 date of this 2007 Act;

38 (5) Any person for the sole purpose of providing a credit file monitoring subscription
39 service, or similar service to which the consumer has subscribed;

40 (6) A consumer reporting agency for the sole purpose of providing a consumer with a
41 copy of the consumer's consumer report upon the consumer's request;

42 (7) Any person or entity for the use of setting or adjusting rates, for claims handling or
43 underwriting for insurance purposes, to the extent permitted by law;

44 (8) A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom
45 access has been granted under section 5 (3) of this 2007 Act for purposes of facilitating the

1 extension of credit or other permissible use;

2 (9) A child support agency acting pursuant to Title IV-D of the Social Security Act (42
3 U.S.C. 651 et seq.) as that Act existed on the effective date of this 2007 Act; and

4 (10) A person for the sole purpose of screening an applicant for a residential dwelling unit
5 as described in ORS 90.295 (1).

6 **SECTION 9.** If a third party requests access to a consumer report on which a security
7 freeze is in effect, the request is in connection with an application for credit or any other
8 use, the consumer does not allow the consumer's consumer report to be accessed for that
9 period of time, and the third party cannot obtain the consumer report through section 8 of
10 this 2007 Act, the third party may treat the application as incomplete.

11 **SECTION 10.** (1) If a security freeze is in place, a consumer reporting agency shall not
12 change any of the following official information in a consumer credit report without sending
13 a written confirmation of the change to the consumer within 30 days of the change being
14 posted to the consumer's report: name, date of birth, Social Security number and address.
15 Written confirmation is not required for technical modifications of a consumer's official in-
16 formation, including name and street abbreviations, complete spellings or transposition of
17 numbers or letters. In the case of an address change, the written confirmation shall be sent
18 to both the new address and to the former address.

19 (2) The following entities are not required to place a security freeze on a credit report:

20 (a) A consumer reporting agency that acts only as a reseller of credit information by
21 assembling and merging information contained in the database of another consumer report-
22 ing agency or multiple consumer reporting agencies, and does not maintain a database of
23 credit information from which new consumer credit reports are produced. However, a con-
24 sumer reporting agency acting as a reseller shall honor any security freeze placed on a
25 consumer report by another consumer reporting agency.

26 (b) A check services or fraud prevention services company that issues reports on inci-
27 dents of fraud or authorizations for the purpose of approving or processing negotiable in-
28 struments, electronic funds transfers or similar methods of payments.

29 (c) A deposit account information service company that issues reports regarding account
30 closures due to fraud, substantial overdrafts, ATM abuse or similar negative information
31 regarding a consumer, to inquiring banks or other financial institutions for use only in re-
32 viewing a consumer request for a deposit account at the inquiring bank or financial institu-
33 tion.

34 **SECTION 11.** (1) Except as otherwise specifically provided by law a person shall not:

35 (a) Print a consumer's Social Security number on any materials not requested by the
36 consumer or part of the documentation of a transaction or service requested by the con-
37 sumer that are mailed to the consumer unless redacted;

38 (b) Print a consumer's Social Security number on any card required for the consumer
39 to access products or services provided by the person; or

40 (c) Publicly post or publicly display a consumer's Social Security number unless redacted.
41 As used in this paragraph, "publicly post or publicly display" means to communicate or oth-
42 erwise make available to the public.

43 (2) This section does not prevent the collection, use, or release of a Social Security
44 number as required by state or federal law, including statute, Oregon Rules of Civil Proce-
45 dure or rule adopted by the Chief Justice of the Supreme Court, the Chief Judge of the Court

1 of Appeals or the judge of the Oregon Tax Court, or the use or printing of a Social Security
2 number for internal verification or administrative purposes or for enforcement of a judgment
3 or court order.

4 (3) This section does not apply to records that are required by state or federal law, in-
5 cluding statute, Oregon Rules of Civil Procedure or rule adopted by the Chief Justice of the
6 Supreme Court, the Chief Judge of the Court of Appeals or the judge of the Oregon Tax
7 Court, to be made available to the public.

8 (4) This section does not apply to a Social Security number in any of the following re-
9 cords or copies of records in any form or storage medium maintained or otherwise possessed
10 by a court, the State Court Administrator or the Secretary of State:

11 (a) A record received on or before the effective date of this 2007 Act;

12 (b) A record received after the effective date of this 2007 Act if, by state or federal
13 statute or rule, the person that submitted the record could have caused the record to be filed
14 or maintained in a manner that protected the Social Security number from public disclosure;
15 or

16 (c) A record, regardless of the date created or received, that is:

17 (A) An accusatory instrument charging a violation or crime;

18 (B) A record of oral proceedings in a court;

19 (C) An exhibit offered as evidence in a proceeding; or

20 (D) A judgment or court order.

21 **SECTION 12.** (1) Any person that owns, maintains or otherwise possesses data that in-
22 cludes a consumer's personal information that is used in the course of the person's business,
23 vocation, occupation or volunteer activities must develop, implement and maintain reason-
24 able safeguards to protect the security, confidentiality and integrity of the personal infor-
25 mation, including disposal of the data.

26 (2) The following shall be deemed in compliance with subsection (1) of this section:

27 (a) A person that complies with a state or federal law providing greater protection to
28 personal information than that provided by this section.

29 (b) A person that is subject to and complies with regulations promulgated pursuant to
30 Title V of the Gramm-Leach-Bliley Act of 1999 (15 U.S.C. 6801 to 6809) as that Act existed
31 on the effective date of this 2007 Act.

32 (c) A person that is subject to and complies with regulations implementing the Health
33 Insurance Portability and Accountability Act of 1996 (45 C.F.R. parts 160 and 164) as that
34 Act existed on the effective date of this 2007 Act.

35 (d) A person that implements an information security program that includes the follow-
36 ing:

37 (A) Administrative safeguards such as the following, in which the person:

38 (i) Designates one or more employees to coordinate the security program;

39 (ii) Identifies reasonably foreseeable internal and external risks;

40 (iii) Assesses the sufficiency of safeguards in place to control the identified risks;

41 (iv) Trains and manages employees in the security program practices and procedures;

42 (v) Selects service providers capable of maintaining appropriate safeguards, and requires
43 those safeguards by contract; and

44 (vi) Adjusts the security program in light of business changes or new circumstances;

45 (B) Technical safeguards such as the following, in which the person:

- 1 (i) Assesses risks in network and software design;
- 2 (ii) Assesses risks in information processing, transmission and storage;
- 3 (iii) Detects, prevents and responds to attacks or system failures; and
- 4 (iv) Regularly tests and monitors the effectiveness of key controls, systems and proce-
- 5 dures; and

6 (C) Physical safeguards such as the following, in which the person:

- 7 (i) Assesses risks of information storage and disposal;
- 8 (ii) Detects, prevents and responds to intrusions;
- 9 (iii) Protects against unauthorized access to or use of personal information during or
- 10 after the collection, transportation and destruction or disposal of the information; and
- 11 (iv) Disposes of personal information after it is no longer needed for business purposes
- 12 or as required by local, state or federal law by burning, pulverizing, shredding or modifying
- 13 a physical record and by destroying or erasing electronic media so that the information
- 14 cannot be read or reconstructed.

15 (3) A person complies with subsection (2)(d)(C)(iv) of this section if the person contracts

16 with another person engaged in the business of record destruction to dispose of personal

17 information in a manner consistent with subsection (2)(d)(C)(iv) of this section.

18 (4) Notwithstanding subsection (2) of this section, a person that is an owner of a small

19 business as defined in ORS 285B.123 (3) complies with subsection (1) of this section if the

20 person's information security and disposal program contains administrative, technical and

21 physical safeguards and disposal measures appropriate to the size and complexity of the

22 small business, the nature and scope of its activities, and the sensitivity of the personal in-

23 formation collected from or about consumers.

24 **SECTION 13.** (1) The Director of the Department of Consumer and Business Services

25 may:

26 (a) Make such public or private investigations within or outside this state as the director

27 deems necessary to determine whether a person has violated any provision of this 2007 Act,

28 or to aid in the enforcement of this 2007 Act.

29 (b) Require or permit a person to file a statement in writing, under oath or otherwise

30 as the director determines, as to all the facts and circumstances concerning the matter to

31 be investigated.

32 (c) Administer oaths and affirmations, subpoena witnesses, compel attendance, take evi-

33 dence and require the production of books, papers, correspondence, memoranda, agreements

34 or other documents or records that the director deems relevant or material to the inquiry.

35 Each witness who appears before the director under a subpoena shall receive the fees and

36 mileage provided for witnesses in ORS 44.415 (2).

37 (2) If a person fails to comply with a subpoena so issued or a party or witness refuses

38 to testify on any matters, the judge of the circuit court or of any county, on the application

39 of the director, shall compel obedience by proceedings for contempt as in the case of diso-

40 bedience of the requirements of a subpoena issued from such court or a refusal to testify

41 therein.

42 (3) If the director has reason to believe that any person has engaged or is engaging in

43 any violation of this 2007 Act, the director may issue an order, subject to ORS chapter 183,

44 directed to the person to cease and desist from the violation, or require the person to pay

45 compensation to consumers injured by the violation. The director may order compensation

1 to consumers only upon a finding that enforcement of the rights of the consumers by private
2 civil action would be so burdensome or expensive as to be impractical.

3 (4)(a) In addition to all other penalties and enforcement provisions provided by law, any
4 person who violates or who procures, aids or abets in the violation of this 2007 Act shall be
5 subject to a penalty of not more than \$1,000 for every violation, which shall be paid to the
6 General Fund of the State Treasury.

7 (b) Every violation is a separate offense and, in the case of a continuing violation, each
8 day's continuance is a separate violation, but the maximum penalty for any occurrence shall
9 not exceed \$500,000.

10 (c) Civil penalties under this section shall be imposed as provided in ORS 183.745.

11 SECTION 14. In accordance with ORS chapter 183, the Director of the Department of
12 Consumer and Business Services may adopt rules for the purpose of carrying out the pro-
13 visions of this 2007 Act.

14 SECTION 15. Notwithstanding ORS 705.145 (2), (3) and (5), the Director of the Depart-
15 ment of Consumer and Business Services can allocate as deemed appropriate the moneys
16 derived pursuant to ORS 646.382 to 646.398, 650.005 to 650.100, 697.005 to 697.095, 697.602 to
17 697.842, 705.350 and 717.200 to 717.320 and 731.804 and ORS chapters 59, 645, 706 to 716, 722,
18 723, 725 and 726 to implement this 2007 Act.

19 SECTION 16. Section 12 of this 2007 Act becomes operative on January 1, 2008.

20 SECTION 17. Notwithstanding any other law limiting expenditures, the limitation on
21 expenditures established by section 1, chapter 215, Oregon Laws 2007 (Enrolled House Bill
22 5014), for the biennium beginning July 1, 2007, as the maximum limit for payment of expenses
23 from fees, money or other revenues, including Miscellaneous Receipts, but excluding lottery
24 funds and federal funds, collected or received by the Department of Consumer and Business
25 Services, is increased by \$202,017 for the purpose of carrying out the provisions of this 2007
26 Act.

27 SECTION 18. This 2007 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
29 October 1, 2007.