

Senate Bill 68

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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**.

Makes conduct that interferes with reporting of certain acts to Oregon Board of Accountancy or with cooperation with board during investigation basis for discipline of licensee.

A BILL FOR AN ACT

1
2 Relating to grounds for discipline of licensee of Oregon Board of Accountancy; amending ORS
3 673.170.

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

5 **SECTION 1.** ORS 673.170 is amended to read:

6 673.170. (1) The Oregon Board of Accountancy may take any of the following disciplinary
7 actions:

8 (a) Revoke, suspend or refuse to issue any certificate issued under ORS 673.040 to 673.075.

9 (b) Revoke, suspend or refuse to issue any public accountant's license issued under ORS 673.100.

10 (c) Revoke, suspend, refuse to renew or refuse to issue any permit described in ORS 673.150.

11 (d) Revoke, suspend, refuse to renew or refuse to issue authorization to practice public
12 accountancy in this state under ORS 673.153.

13 (e) Censure the holder of any permit described in ORS 673.150 or authorization described in ORS
14 673.153.

15 (f) Revoke, suspend, refuse to renew or refuse to issue any registration issued under ORS
16 673.160.

17 (g) Censure the holder of any registration issued under ORS 673.160.

18 (2) The board may take any of the actions described in subsection (1) of this section for any one
19 or any combination of the following causes:

20 (a) Fraud or deceit in obtaining or applying for:

21 (A) A certificate under ORS 673.040 to 673.075;

22 (B) A public accountant's license under ORS 673.100;

23 (C) A registration under ORS 58.345 or 673.160;

24 (D) A permit under ORS 673.150;

25 (E) Authorization to practice public accountancy in this state under the provisions of ORS
26 673.153; or

27 (F) Admission to the roster of authorized accountants referred to in ORS 297.670.

28 (b) Dishonesty, fraud or gross negligence in the practice of public accountancy.

29 (c) Incompetence in the practice of public accountancy. A holder of a license issued under ORS
30 673.100, certificate, permit or registration is incompetent in the practice of public accountancy if the

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 holder:

2 (A) Engages or has engaged in conduct that evidences a lack of ability or fitness to discharge
 3 the duty owed to a client or the general public; or

4 (B) Engages or has engaged in conduct that evidences a lack of knowledge or ability to apply
 5 principles or skills of the practice of public accountancy, as adopted by the board.

6 (d) Violation of any of the provisions of ORS 673.010 to 673.457.

7 (e) Violation of any of the provisions of ORS 297.405 to 297.555.

8 (f) Violation of any provision of the Code of Professional Conduct adopted by the board under
 9 the authority granted by ORS 673.010 to 673.457, or rules adopted by the board under ORS 670.310.

10 (g) Conduct resulting in a conviction of a felony under the laws of any state, of any foreign ju-
 11 risdiction or of the United States. However, such conduct may be considered only to the extent
 12 permissible under the provisions of ORS 670.280.

13 (h) Conviction of any crime, an essential element of which is dishonesty, fraud or misrepresen-
 14 tation, under the laws of any state, of any foreign jurisdiction or of the United States.

15 (i) Conviction of willful failure to pay any tax, file any tax return, keep records or supply in-
 16 formation required under the tax laws of any state, of any foreign jurisdiction or of the United
 17 States, or conviction of the willful making, rendering, delivery, disclosure, signing or verifying of
 18 any false or fraudulent list, return, account, statement or other document, or of supplying any false
 19 or fraudulent information, required under the tax laws of any state, of any foreign jurisdiction or
 20 of the United States.

21 (j) Cancellation, revocation, suspension or refusal to renew, authority to practice as a certified
 22 public accountant or a public accountant in any state or foreign jurisdiction.

23 (k) Cancellation, suspension, revocation or refusal to renew by any state, any foreign jurisdic-
 24 tion or any federal agency of the right to practice law, to practice as an enrolled agent before the
 25 Internal Revenue Service pursuant to 31 C.F.R. part 10, or to practice under other regulatory law
 26 if the cancellation, suspension, revocation or refusal to renew was related to the practice of public
 27 accountancy or if dishonesty, fraud or deception was involved.

28 (L) Failure to comply with the continuing education requirements under ORS 673.165 unless
 29 such requirements have been waived by the board.

30 (m) Failure to pay a civil penalty imposed by the board after the period for requesting a hearing
 31 on the civil penalty terminates if the person or business organization against whom the penalty is
 32 imposed has not requested a hearing, or after the period for seeking judicial review of the order
 33 assessing the civil penalty has passed.

34 (n) Failure to comply with the terms of a consent agreement described in subsection (3) of this
 35 section.

36 (o) Failure to comply with any reporting or other requirement established by the board by rule.

37 (p) Issuance of a cease and desist order against the person under subsection (7) of this section.

38 **(q) Conduct that is intended to persuade, frustrate, discourage, intimidate or otherwise**
 39 **prevent a client or another person from reporting conduct by a licensee that might be the**
 40 **basis for disciplinary action under this subsection or from cooperating with the board when**
 41 **the board conducts an investigation.**

42 (3) In lieu of disciplinary actions under subsection (1) of this section, the board may enter into
 43 a consent agreement with the holder of any certificate described in ORS 673.040 to 673.075, the
 44 holder of any public accountant's license, the holder of any registration described in ORS 673.160,
 45 the holder of any permit described in ORS 673.150 or the holder of any authorization described in

1 ORS 673.153, under which the holder agrees to comply with conditions prescribed by the board.

2 (4) In addition to the causes in subsection (2) of this section, the board may take any of the
 3 actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in
 4 the practice of public accountancy.

5 (5) In lieu of or in addition to any action described in subsection (1) of this section, the board
 6 may take any of the following actions:

7 (a) Require a holder of a permit under ORS 673.150 that provides compilation services or a
 8 business organization registered under ORS 673.160 to undergo a peer review conducted as the
 9 board may specify; or

10 (b) Require a holder of a permit under ORS 673.150 to complete any continuing professional
 11 education programs the board may specify.

12 (6) In the case of a registered business organization, the board may take any of the actions de-
 13 scribed in subsection (1) of this section for any of the following additional causes:

14 (a) The cancellation, revocation or suspension of, or refusal to renew, the authority to provide
 15 professional services, in this state or any other jurisdiction, of any partner, officer, shareholder,
 16 member, manager or owner of the business organization; or

17 (b) The cancellation, revocation or suspension of, or refusal to renew, the authority of the
 18 business organization to practice public accountancy or provide other professional services in any
 19 other state or foreign jurisdiction.

20 (7) If the board has reasonable cause to believe that any person has engaged, is engaging or is
 21 about to engage in any violation of any provision of ORS 673.010 to 673.457 or any rule or order
 22 adopted under ORS 673.010 to 673.457, the board may issue an order, subject to ORS 673.173, di-
 23 rected to the person, and to any other person directly or indirectly controlling the person, to cease
 24 and desist from the violation or threatened violation.

25 (8) Notwithstanding any protective order issued under ORCP 36 C, upon motion of the board,
 26 the court shall order disclosure of materials or information subject to a protective order under
 27 ORCP 36 C. The board may use the material or information to take disciplinary action under this
 28 section.

29 (9) If the board takes disciplinary action under this section, the board may assess against the
 30 person disciplined costs associated with the disciplinary action. An assessment under this subsection
 31 is in addition to, and not in lieu of, any other action taken by the board. Moneys collected under
 32 this subsection shall be deposited in the Oregon Board of Accountancy Account established in the
 33 General Fund pursuant to ORS 670.335.

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