

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	9 - 0 - 1
Yeas:	Barton, Cameron, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker
Nays:	0
Exc.:	Garrett
Prepared By:	Anna Braun, Counsel
Meeting Dates:	5/13

WHAT THE MEASURE DOES: Allows attorney fees for claims based on an express or implied contract regardless of whether the prevailing party was a party to the contract. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Frequency of cases
- Impact of police report of identity theft

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Current Oregon law allows the award of attorney fees to a prevailing party in an express or implied contract even in situations where the contract has been found void or unenforceable. SB 745 is a response to two appellate court cases, *Dess Properties LLC v. Sheridan Truck & Heavy Equipment LLC* and *Autolend, IAP Inc. v. Auto Depot Inc.*, where the court found that the defendant was not allowed to recover attorney fees under ORS 20.083 and ORS 20.096 because the defendant was not party to the contract. These cases are problematic for victims of identity theft because they become the defendant in a case and do not have a contract with the plaintiff. SB 745 clarifies that attorney fees can be awarded without regard to whether the defendant is party to the contract.