

HOUSE AMENDMENTS TO HOUSE BILL 2139

By COMMITTEE ON JUDICIARY

April 22

- 1 On page 1 of the printed bill, line 3, after “ORS” insert “441.277,”.
- 2 In line 12, delete “person legally re-”.
- 3 In line 13, delete “sponsible” and insert “licensee”.
- 4 In line 14, delete the boldfaced material and insert “licensee”.
- 5 On page 2, lines 21 and 22, delete the boldfaced material and insert “the licensee”.
- 6 In line 23, delete “person legally responsible for the facility” and insert “licensee”.
- 7 In line 28, delete “person legally responsible for the facility” and insert “licensee”.
- 8 In line 32, delete “person legally responsible for the facility” and insert “licensee”.
- 9 In line 43, delete “person legally responsible” and insert “licensee”.
- 10 On page 3, line 38, delete “any person legally responsible for the facility” and insert “a
11 licensee”.
- 12 On page 4, line 14, delete “person legally responsible for the facility” and insert “licensee”.
- 13 In line 22, delete “person le-”.
- 14 In line 23, delete “gally responsible for the facility” and insert “licensee”.
- 15 In line 26, delete “person legally responsible for”.
- 16 In line 27, delete “the facility” and insert “licensee”.
- 17 In line 36, delete “person legally responsible for the fa-”.
- 18 In line 37, delete “cility” and insert “licensee”.
- 19 On page 5, line 12, after the semicolon insert “or”.
- 20 In line 14, delete the semicolon and insert a period.
- 21 Delete lines 15 and 16.
- 22 In line 17, delete “facility” and insert “licensee” and delete “less than” and insert “to exceed”.
- 23 In line 21, delete “\$500,000” and insert “\$750,000”.
- 24 In line 28, delete “\$500,000” and insert “\$750,000”.
- 25 In line 30, delete “\$400,000” and insert “\$600,000”.
- 26 In line 31, delete “\$500,000” and insert “\$750,000”.
- 27 In line 33, before the first “The” insert “The department’s notice of intent to reinstitute the fa-
28 cility payment shall include a summary of the amounts expended by the department from the fund
29 and the balance of the fund on the date of the notice.”.
- 30 On page 6, line 9, after the first “the” delete the rest of the line and lines 10 and 11.
- 31 In line 12, delete “legally responsible for the facility” and insert “licensee if the licensee intends
32 to discontinue the operation of or close the facility during the period of trust. The court may use
33 its discretion in terminating a trust upon petition of the licensee”.
- 34 In line 17, after the second “the” delete the rest of the line.
- 35 In line 18, delete “legally responsible for the facility” and insert “that was the licensee when

1 the department filed the petition under ORS 441.281”.

2 In line 22, after “any” delete the rest of the line and lines 23 through 27 and insert “licensee
3 from ceasing the operation of and closing a facility during the period of the trust. However, the
4 licensee intending to do so shall give written notice of the intended action to the trustee pursuant
5 to rules of the department. The trustee may continue to operate the facility for a period of not more
6 than 60 days after notice is received. The licensee shall be liable for any expenses incurred in the
7 operation”.

8 In line 38, delete “person”.

9 In line 39, delete “legally responsible” and insert “licensee”.

10 In line 42, delete “person legally responsible”.

11 In line 43, delete “for the facility” and before “to pay” insert “licensee”.

12 On page 7, delete line 11 and insert “known address of the licensee. If the licensee fails to
13 file”.

14 In line 13, delete “person” and insert “licensee”.

15 In line 14, after “whether” delete the rest of the line.

16 In line 15, delete “facility and”.

17 In line 16, after the first “The” delete the rest of the line and insert “licensee is not li-”.

18 In line 18, delete “person legally responsible for the facility” and insert “licensee”.

19 In line 19, delete “person legally re-”.

20 In line 20, delete “sponsible for the facility” and insert “licensee”.

21 Delete lines 23 through 27 and insert “section upon any real property and other beneficial in-
22 terest, direct or indirect, of any licensee, any fixtures, equipment or goods used in the operation of
23 the facility and the proceeds from a conveyance of any such property or interest made by the
24 licensee within the 12 months prior to the filing”.

25 After line 32, insert:
26 “(5) The lien established under subsection (3) of this section may be recorded in the County
27 Clerk Lien Record described in ORS 205.130.”.

28 In line 35, delete “person legally responsible for” and insert “licensee of”.

29 In line 38, delete “person legally responsible” and insert “licensee”.

30 In line 40, delete “person legally responsible” and insert “licensee”.

31 In line 43, delete “A person legally responsible for the facility” and insert “A licensee”.

32 On page 8, line 31, delete “person le-”.

33 In line 32, delete “gally responsible for a facility” and insert “licensee”.

34 In line 40, delete “person legally responsible for the operation”.

35 In line 41, delete “of the facility” and insert “licensee”.

36 In line 44, delete “person legally responsible”.

37 In line 45, delete “for the facility” and insert “licensee”.

38 On page 9, line 3, delete “person legally responsible for the facility” and insert “licensee”.

39 In line 11, delete “person legally responsible for the facility” and insert “licensee”.

40 In line 20, delete “, the person legally responsible for the”.

41 In line 21, delete “facility” and insert “and compensation of any employees or agents of the
42 temporary manager pursuant to section 15 of this 2009 Act, the licensee”.

43 In line 23, after the period delete the rest of the line and insert “The department shall serve a
44 notice of deficiency upon the licensee in accordance with ORS 183.415 (2). The notice shall conform
45 to ORS 183.415 and”.

1 Delete lines 25 through 35 and insert:
2 “(a) The amount of the deficiency; and
3 “(b) That the department may have a lien for the amount of the deficiency upon any real prop-
4 erty and other beneficial interest, direct or indirect, of the licensee, upon any fixtures, equipment
5 or goods used in the operation of the facility and upon the proceeds of any conveyance of such
6 property or interest by the licensee within the 12 months prior to the appointment of the temporary
7 manager.
8 “(5) The department shall have a lien for any deficiency established under subsection (4) of this
9 section upon any real property and other beneficial interest, direct or indirect, of the licensee, upon
10 any fixtures, equipment or goods used in the operation of the facility and upon the proceeds of any
11 conveyance of such property or interest by the licensee in the 12 months prior to the appointment
12 of the temporary manager.
13 “(6) The department shall conduct any hearing under this section as a contested case hearing
14 in accordance with ORS chapter 183 and the rules of the department. The department may serve the
15 final order without serving a proposed order. The only issues to be decided in the hearing are:
16 “(a) The amount of the deficiency; and
17 “(b) Whether the expenses incurred by the temporary manager are reasonable.”
18 In line 36, delete “(6)” and insert “(7)”.
19 In line 40, delete “(7)” and insert “(8)”.
20 In line 42, delete “(8)” and insert “(9)”.
21 In line 45, delete “from the fund made pursuant” and insert “authorized by”.
22 On page 10, line 1, delete “(1)”.
23 In line 4, delete “person legally responsible for the facility” and insert “licensee”.
24 Delete lines 6 and 7.
25 After line 14, insert:
26 “**SECTION 20.** ORS 441.277 is amended to read:
27 “441.277. As used in ORS 441.277 to 441.323:
28 “[*(1) ‘Department’ means the Department of Human Services.*]
29 “[*(2) ‘Director’ means the Director of Human Services.*]
30 “[*(3) (1) ‘Facility’ means a long term care facility as defined in ORS 442.015 or a residential*
31 *care facility as defined in ORS 443.400. ‘Facility’ does not include facilities licensed under ORS*
32 *418.205 to 418.325 by the Department of Human Services. [are exempt from ORS 441.277 to*
33 *441.323.]*
34 “**(2) ‘Licensee’ means any person licensed by the department to operate a facility other**
35 **than a trustee appointed under ORS 441.281 or a temporary manager appointed under section**
36 **15 of this 2009 Act.**
37 “[*(4) (3) ‘Monitor’ means an agent of the Director of Human Services designated by the di-*
38 *rector to observe the operation of a facility.*”
39