

SENATE MINORITY REPORT AMENDMENTS TO SENATE BILL 328

February 24

President Courtney:

A minority of your Committee on Consumer Protection and Public Affairs, to whom was referred Senate Bill 328, having had the same under consideration, respectfully reports it back with the recommendation that it do pass with the following amendments:

1 In line 2 of the printed bill, delete “creating new provisions; and amending ORS 646.607” and
2 insert “amending ORS 697.039, 697.091, 697.093 and 697.095”.

3 Delete lines 4 through 21 and insert:

4 “**SECTION 1.** ORS 697.039 is amended to read:

5 “697.039. (1) The Director of the Department of Consumer and Business Services may refuse to
6 issue or renew or may revoke or suspend *[any]* a registration under ORS 697.031 if the director de-
7 termines that a **person that is registered under ORS 697.031:**

8 “(a) *[Any information a person]* Files **false or untruthful information** with the director under
9 ORS 697.031 *[is false or untruthful]*;

10 “(b) *[A person has]* Violated *[any of the rules]* a **rule** of the director for registration under ORS
11 697.031;

12 “(c) *[A person has]* Violated the provisions of ORS 697.045 or 697.058;

13 “(d) **Violated a provision of ORS 646.639;**

14 “*[(d)]* (e) *[A person has]* Failed to maintain in effect the bond or *[an]* irrevocable letter of credit
15 required under ORS 697.031;

16 “*[(e)]* (f) *[A person has]* Died or *[become]* **became** incapacitated;

17 “*[(f)]* (g) *[A person has]* Engaged in dishonest, fraudulent or illegal practices or conduct in
18 *[any]* a business or profession; or

19 “*[(g)]* (h) *[A person has been]* **Was** convicted of a felony or misdemeanor, an essential element
20 of which is fraud.

21 “(2) A revocation or suspension under this section may be for a time certain or upon condition
22 that certain acts be performed.

23 “(3) If the director issued an initial order *[of revocation of]* **to revoke** a registration before *[the*
24 *expiration of]* the registration **expired**, the director may enter a final order of revocation even
25 though the registration has expired.

26 “(4) **The director’s** actions *[of the director]* under this section are subject to the provisions of
27 ORS chapter 183.

28 “**SECTION 2.** ORS 697.091 is amended to read:

29 “697.091. (1) A person who violates *[any]* a provision of ORS **646.639**, 697.015 or 697.058 or
30 *[any]* a rule adopted under ORS 697.031 or 697.085 *[shall]* **may** not charge or receive *[any]* a fee or
31 compensation on *[any]* moneys received or collected while in violation of *[any]* a provision of ORS
32 **646.639**, 697.015 or 697.058 or *[any]* a rule adopted under ORS 697.031 or 697.085.

1 “(2) A person [shall] **may** not charge or receive [any] a fee or compensation on [any] moneys
2 received or collected while operating in accordance with [any] a provision of ORS 697.015 or 697.058
3 or [any] a rule adopted under ORS 697.031 or 697.085 but that is received or collected as a result
4 of the person’s acts as a collection agency or out-of-state collection agency operating in violation
5 of [any] a provision of ORS **646.639**, 697.015 or 697.058 or [any] a rule adopted under ORS 697.031
6 or 697.085.

7 “(3) [All] Moneys collected or received in violation of this section shall be immediately returned
8 to the assignors, or their assigns, of the account on which the moneys were paid.

9 “**SECTION 3.** ORS 697.093 is amended to read:

10 “697.093. (1) The Director of the Department of Consumer and Business Services may:

11 “(a) Undertake [the] investigations, including investigations outside this state, that the director
12 considers necessary to determine whether a person has:

13 “(A) Violated, is violating or is about to violate:

14 “(i) ORS **646.639**, 697.015, 697.031, 697.045, 697.058, 697.091, 697.105 or 697.115;

15 “(ii) A rule adopted under ORS 697.031, 697.085 or 697.086; or

16 “(iii) An order issued under this section;

17 “(B) Filed information under ORS 697.031 that is false or untruthful; or

18 “(C) Failed to maintain in effect the bond or [an] irrevocable letter of credit required under ORS
19 697.031.

20 “(b) Require a person to file a statement in writing, under oath or otherwise, concerning the
21 matter being investigated.

22 “(c) Take evidence from witnesses and compel the attendance of witnesses and the production
23 of books, papers, correspondence, memoranda, agreements or other documents or records that the
24 director considers relevant or material to an investigation or proceeding.

25 “(d) If the director has reason to believe that a person has:

26 “(A) Violated, is violating or is about to violate ORS **646.639**, 697.015, 697.031, 697.045, 697.058,
27 697.091, 697.105 or 697.115 or a rule adopted under ORS 697.031, 697.085 or 697.086, issue an order
28 to cease and desist from the violation.

29 “(B) Filed information under ORS 697.031 that is false or untruthful, issue an order to correct
30 the filing.

31 “(C) Failed to maintain in effect the bond or [an] irrevocable letter of credit required under ORS
32 697.031, issue an order to remedy the failure.

33 “(2) The authority conferred by this section is in addition to and not in lieu of [any] other au-
34 thority conferred on the director.

35 “**SECTION 4.** ORS 697.095 is amended to read:

36 “697.095. (1) In addition to any other penalty provided by law, a person who violates any pro-
37 vision of ORS **646.639**, 697.015 or 697.058 or [any] a rule adopted under ORS 697.031, 697.085 or
38 697.086 is subject to forfeiture and payment of a civil penalty to the Department of Consumer and
39 Business Services in an amount of not more than \$1,000 for each offense.

40 “(2) Civil penalties under this section shall be imposed as provided in ORS 183.745.

41 “(3) All penalties recovered shall be deposited in the Consumer and Business Services Fund
42 created by ORS 705.145.”.

43 /s/ Larry George
44 Senator
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/s/ Fred Girod
Senator
