

HB 4084-2
(LC 256)
2/8/12 (BLS/ps)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4084**

1 On page 1 of the printed bill, line 3, delete "163.165," and after
2 "181.537," insert "192.586".

3 Delete lines 5 through 17.

4 On page 2, delete lines 1 through 28 and insert:

5 "**NOTE:** Section 1 was deleted by amendment. Subsequent sections were
6 not renumbered."

7 On page 8, delete lines 3 through 8 and insert:

8 "**SECTION 6.** (1) Upon notice by a law enforcement agency that an in-
9 vestigation into abuse is being conducted under ORS 124.070, and without the
10 consent of the named elderly person or of the named elderly person's care-
11 taker, fiduciary or other legal representative, a health care provider must:

12 "(a) Permit the law enforcement agency to inspect and copy, or otherwise
13 obtain, protected health information of the named elderly person; and

14 "(b) Upon request of the law enforcement agency, consult with the agency
15 about the protected health information."

16 In line 12, delete "192.519" and insert "192.556".

17 Delete lines 16 through 21 and insert:

18 "**SECTION 8.** (1) Upon notice by a law enforcement agency that an in-
19 vestigation into abuse is being conducted under ORS 441.650, and without the
20 consent of the named resident or of the named resident's caretaker, fiduciary
21 or other legal representative, a health care provider must:

22 "(a) Permit the law enforcement agency to inspect and copy, or otherwise

1 obtain, protected health information of the named resident; and

2 “(b) Upon request of the law enforcement agency, consult with the agency
3 about the protected health information.”

4 In line 25, delete “192.519” and insert “192.556”.

5 Delete lines 29 through 45.

6 On page 9, delete lines 1 through 18 and insert:

7 **“SECTION 10. (1) Upon the request of a law enforcement agency
8 and the receipt of the certification required under subsection (2) of
9 this section, a financial institution shall disclose and provide copies
10 of the financial records of the person who is the alleged victim in an
11 investigation under ORS 124.070 or 441.650 to the law enforcement
12 agency without the consent of the person or of the person’s caretaker,
13 fiduciary or other legal representative.**

14 **“(2) In requesting the copies of financial records under subsection
15 (1) of this section, the law enforcement agency shall specify the name
16 and Social Security number of the person about whom the copies are
17 sought, and shall certify to the financial institution in writing, signed
18 by an agent of the law enforcement agency:**

19 **“(a) That the person about whom copies of financial records are
20 sought is the alleged victim in an abuse investigation under ORS
21 124.070 or 441.650;**

22 **“(b) That the law enforcement agency has a reasonable belief that
23 abuse has occurred or is occurring; and**

24 **“(c) That the requested copies of financial records are necessary for
25 a determination in the investigation that abuse has occurred or is oc-
26 ccurring.**

27 **“(3) A financial institution that supplies copies of financial records
28 under this section may, but is not required to, inform the person about
29 whom copies of financial records have been requested, or the person’s
30 caretaker, fiduciary or other legal representative, about the request**

1 and disclosure unless specifically directed by the law enforcement
2 agency not to do so.

3 “(4) A financial institution that supplies copies of financial records
4 under this section may be reimbursed for costs incurred as provided
5 in ORS 192.602.

6 “(5) A financial institution that supplies copies of financial records
7 under this section is not liable to any person for any loss, damage or
8 injury arising out of or in any way pertaining to the disclosure of the
9 copies.

10 “(6) Each financial institution that is requested to supply copies of
11 financial records under this section may specify that requests for
12 copies from the financial institution must be submitted in written,
13 tape or electronic format. A reasonable time must be provided the fi-
14 nancial institution to comply with subsection (1) of this section.

15 “(7)(a) A law enforcement agency may seek disclosure and copies
16 of financial records under this section only with respect to a person
17 who is the alleged victim of abuse in an investigation under ORS
18 124.070 or 441.650.

19 “(b) Notwithstanding paragraph (a) of this subsection, disclosure
20 and copies of financial records may be obtained under this section
21 when the financial records pertain to an account, loan or other fi-
22 nancial relationship owned, held or maintained by a person who is the
23 alleged victim in an abuse investigation under ORS 124.070 or 441.650
24 together with one or more other persons who are not alleged victims
25 in the abuse investigation.

26 “SECTION 10a. ORS 192.586 is amended to read:

27 “192.586. (1) Except as provided in ORS 192.588, 192.591, 192.593, 192.596,
28 192.598 and 192.603 and section 10 of this 2012 Act or as required by ORS
29 25.643 and 25.646 and the Uniform Disposition of Unclaimed Property Act,
30 ORS 98.302 to 98.436 and 98.992:

1 “(a) A financial institution may not provide financial records of a cus-
2 tomer to a state or local agency.

3 “(b) A state or local agency may not request or receive from a financial
4 institution financial records of customers.

5 “(2) Subsection (1) of this section does not preclude a financial institu-
6 tion, in the discretion of the financial institution, from initiating contact
7 with, and thereafter communicating with and disclosing customer financial
8 records to:

9 “(a) Appropriate state or local agencies concerning a suspected violation
10 of the law.

11 “(b) The office of the State Treasurer if the records relate to state in-
12 vestments in commercial mortgages involving the customer. The records and
13 the information contained therein are public records but are exempt from
14 disclosure under ORS 192.410 to 192.505 unless the public interest in disclo-
15 sure clearly outweighs the public interest in confidentiality. However, the
16 following records in the office must remain open to public inspection:

17 “(A) The contract or promissory note establishing a directly held resi-
18 dential or commercial mortgage and information identifying collateral;

19 “(B) Any copy the office retains of the underlying mortgage note in which
20 the office purchases a participation interest; and

21 “(C) Information showing that a directly held loan is in default.

22 “(c) An appropriate state or local agency in connection with any business
23 relationship or transaction between the financial institution and the cus-
24 tomer, if the disclosure is made in the ordinary course of business of the fi-
25 nancial institution and will further the legitimate business interests of the
26 customer or the financial institution.

27 “(3) ORS 192.583 to 192.607 do not prohibit any of the following:

28 “(a) The dissemination of any financial information that is not identified
29 with, or identifiable as being derived from, the financial records of a par-
30 ticular customer.

1 “(b) The examination by, or disclosure to, the Department of Consumer
2 and Business Services of financial records that relate solely to the exercise
3 of the department’s supervisory function. The scope of the department’s su-
4 pervisory function shall be determined by reference to statutes that grant
5 authority to examine, audit, or require reports of financial records or finan-
6 cial institutions.

7 “(c) The furnishing to the Department of Revenue of information by the
8 financial institution, whether acting as principal or agent, as required by
9 ORS 314.360.

10 “(d) Compliance with the provisions of ORS 708A.655 or 723.844.

11 “(4) Notwithstanding subsection (1) of this section, a financial institution
12 may:

13 “(a) Enter into an agreement with the Oregon State Bar that requires the
14 financial institution to make reports to the Oregon State Bar whenever a
15 properly payable instrument is presented for payment out of an attorney
16 trust account that contains insufficient funds, whether or not the instrument
17 is honored by the financial institution; and

18 “(b) Submit reports to the Oregon State Bar concerning instruments pre-
19 sented for payment out of an attorney trust account under a trust account
20 overdraft notification program established under ORS 9.685.”.

21 On page 12, lines 15 through 17, restore the bracketed material.

22 In line 19, after “(b)” insert “Notwithstanding paragraph (a) of this sub-
23 section.”.

24 On page 18, delete lines 39 through 43.

25 In line 44, delete “21” and insert “20” and before “The” insert “No later
26 than October 1, 2012,”.

27 On page 19, line 1, delete “the” and insert “a”.

28 Delete lines 2 and 3 and insert “call system and 2-1-1 system integration
29 to provide a means of making the report required by ORS 124.060.”.

30 In line 4, delete “22” and insert “21”.

1 In line 5, after "(a)" insert "Using new or existing materials,".

2 In line 10, after "(b)" insert "Using new or existing materials,".

3 In line 15, delete "23" and insert "22" and before "The" insert "No later
4 than October 1, 2012,".

5 In line 18, after "section" delete the rest of the line and line 19 and insert
6 "21 of this 2012 Act.".

7 Delete lines 20 through 25.

8 In line 26, delete "25" and insert "23".

9 On page 21, line 5, delete "26" and insert "24" and delete "25" and insert
10 "23".

11 In line 6, delete "27" and insert "25".

12 In line 10, delete "28" and insert "26".

13 In line 14, delete "29" and insert "27".

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