

House Bill 2565

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Board of Governors)

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**.

Gives judgment lien awarded to custodian of law practice priority over certain other creditors and security interests.

Allows executive director of Oregon State Bar to send certain notices to members by electronic mail.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1 Relating to attorneys; creating new provisions; amending ORS 9.200, 9.675 and 9.735; and declaring
2 an emergency.

3
4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 9.735 is amended to read:

6 9.735. The court shall enter a judgment awarding reasonable compensation and expenses to any
7 attorney who acts as custodian under ORS 9.705 to 9.755. The judgment shall be against the affected
8 attorney or the estate of the affected attorney. The judgment is a lien upon all nontrust funds, office
9 furnishings, supplies, equipment, library and other personal property used in the law practice of the
10 affected attorney retroactive to the date of filing of the petition for jurisdiction under ORS 9.705 to
11 9.755. The judgment lien [*is subordinate to nonpossessory liens and security interest created prior to*
12 *its taking effect*] **takes priority over all general unsecured creditors, nonpossessory liens and**
13 **security interests that were unperfected on the date the court assumed jurisdiction**, and may
14 be foreclosed as provided in ORS chapter 87.

15 **SECTION 2.** ORS 9.200 is amended to read:

16 9.200. (1) Any member in default in payment of membership fees established under ORS 9.191 (1)
17 for a period of [90] **30** days, or any person in default in payment of membership fees established
18 under ORS 9.191 (2) for a period of 30 days after admission or as otherwise provided by the board,
19 or any member in default in payment of assessed contributions to a professional liability fund under
20 ORS 9.080 (2) for a period of 30 days, shall, after 60 days' written notice of the delinquency, be
21 suspended from membership in the bar. The **executive director of the Oregon State Bar shall**
22 **send the** notice of delinquency [*shall be sent by the executive director, by registered or certified*
23 *mail,*] to the **delinquent** member [*in default at the last-known post-office address of the member*] **at**
24 **the member's electronic mail address on file with the bar on the date of the notice. The**
25 **executive director shall send the notice by mail to any member who is not required to have**
26 **an electronic mail address on file with the bar under the rules of procedure.** [*Failure*] **If a**
27 **delinquent member fails** to pay the fees or contributions within 60 days after the date of the [*de-*
28 *posit of the notice in the post office shall automatically suspend the delinquent member*] **notice, the**
29 **member is automatically suspended.** The **executive director shall provide the** names of all

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 members suspended [*from membership for nonpayment of fees or contributions shall be certified by the*
 2 *executive director*] **under this section** to the State Court Administrator and to each of the judges
 3 of the Court of Appeals, circuit and tax courts of the state.

4 (2) An active member delinquent in the payment of [*such*] fees or contributions [*shall not be*] **is**
 5 **not** entitled to vote.

6 (3) A member suspended for delinquency [*in payment of such fees or contributions shall*] **under**
 7 **this section may** be reinstated only on compliance with the rules of the Supreme Court and the
 8 rules of procedure and payment of all required fees or contributions.

9 **SECTION 3.** ORS 9.675 is amended to read:

10 9.675. (1) An active member of the Oregon State Bar shall certify annually to the bar whether
 11 the member maintains any lawyer trust accounts in Oregon. If a member maintains one or more
 12 lawyer trust accounts, the member must disclose the financial institution in which each account is
 13 held and the account number for each account. The executive director of the Oregon State Bar shall
 14 prescribe a form and due date for the certification and disclosures required by this section.

15 (2) If a member does not file the certificate and disclosures required by this section [*by*] **within**
 16 **30 days after** the due date prescribed under subsection (1) of this section, the executive director
 17 shall send written notice of the default to the member **at the member's electronic mail address**
 18 **on file with the bar on the date of the notice. The executive director shall send the notice**
 19 **by mail to any member who is not required to have an electronic mail address on file with**
 20 **the bar under the rules of procedure.** [*The notice shall be sent by registered or certified mail to*
 21 *the last-known post-office address of the member.*] If a member does not file the certificate and dis-
 22 closures required by this section within 60 days after the date **of** the notice [*is mailed*], the person's
 23 membership in the bar is automatically suspended. The executive director shall provide the names
 24 of all persons suspended under this section to the judges of the circuit courts, the Court of Appeals
 25 and the Oregon Tax Court.

26 (3) A person suspended under this section may be reinstated to membership in the bar only if
 27 the person pays all required fees and contributions and complies with all rules of procedure and
 28 rules of the Supreme Court relating to reinstatement.

29 **SECTION 4.** **The amendments to ORS 9.735 by section 1 of this 2013 Act apply to judg-**
 30 **ments awarding compensation and expenses to an attorney who acts as custodian that are**
 31 **entered on or after the effective date of this 2013 Act.**

32 **SECTION 5.** **The amendments to ORS 9.200 and 9.675 by sections 2 and 3 of this 2013 Act**
 33 **apply to notices sent by the executive director of the Oregon State Bar on or after the ef-**
 34 **fective date of this 2013 Act.**

35 **SECTION 6.** **This 2013 Act being necessary for the immediate preservation of the public**
 36 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 37 **on its passage.**

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