

**PROPOSED AMENDMENTS TO
HOUSE BILL 2252**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and line 3 and insert “646.607, 646.639, 646.641 and 697.005; and declaring
3 an emergency.”.

4 Delete lines 5 through 28 and delete pages 2 through 6 and insert:

5 **“SECTION 1. (1) As used in this section:**

6 **“(a) ‘Consumer’ means a natural person who purchases or acquires**
7 **property, services or credit for personal, family or household purposes.**

8 **“(b) ‘Consumer transaction’ means a transaction between a con-**
9 **sumer and a person that sells, leases or provides property, services or**
10 **credit to consumers.**

11 **“(c) ‘Credit’ means a right that a creditor grants to a consumer to**
12 **defer payment of a debt, to incur a debt and defer payment of the debt,**
13 **or to purchase or acquire property or services and defer payment for**
14 **the property or services.**

15 **“(d) ‘Creditor’ means a person who in the ordinary course of busi-**
16 **ness engages in consumer transactions.**

17 **“(e) ‘Debt’ means an obligation or alleged obligation that arises out**
18 **of a consumer transaction.**

19 **“(f)(A) ‘Debt buyer’ means a person that engages in the business**
20 **of purchasing delinquent or charged-off debt for the purpose of col-**
21 **lecting the debt, whether the person collects the debt, employs or**
22 **contracts with another person to collect the debt or retains an attor-**

1 **ney to bring an action to collect the debt.**

2 **“(B) ‘Debt buyer’ does not include a mortgage banker, as defined**
3 **in ORS 86A.100, a licensee, as defined in ORS 725.010, or a financial**
4 **institution, as defined in ORS 706.008.**

5 **“(g) ‘Debt collector’ means a person that by direct or indirect**
6 **action, conduct or practice collects or attempts to collect a debt owed,**
7 **or alleged to be owed, to a creditor.**

8 **“(h) ‘Debtor’ means a consumer who owes or allegedly owes a debt.**

9 **“(i) ‘Person’ means a natural person, a corporation, a trust, a**
10 **partnership, an incorporated or unincorporated association and any**
11 **other legal entity except a body or officer that acts under the statu-**
12 **tory authority of this state or the United States.**

13 **“(2)(a) A person may not engage in business as a debt buyer in this**
14 **state without first obtaining a certificate of registration from the De-**
15 **partment of Consumer and Business Services. The Director of the**
16 **Department of Consumer and Business Services by rule may specify a**
17 **form that a debt buyer must use to apply for registration and a fee**
18 **that the debt buyer must pay to obtain the certificate of registration.**
19 **The amount of the fee apportioned to each applicant for registration**
20 **may not exceed the applicant’s share of the aggregated costs that the**
21 **department incurs in operating the registry and issuing certificates**
22 **of registration. The department shall require an applicant for a cer-**
23 **tificate of registration under this paragraph to submit:**

24 **“(A) The applicant’s name, address, telephone number and other**
25 **contact information;**

26 **“(B) The name, address, telephone number and other contact in-**
27 **formation for the applicant’s registered agent in this state or a state-**
28 **ment that identifies the director as the applicant’s registered agent for**
29 **the purpose of receiving service of process if the applicant does not**
30 **have a registered agent; and**

1 **“(C) The names, addresses, telephone numbers and other contact**
2 **information for the applicant’s directors, officers, partners or mem-**
3 **bers, if the applicant is a corporation, limited liability company, part-**
4 **nership, limited partnership or other business entity.**

5 **“(b) Unless the director finds in writing that the applicant has ex-**
6 **hibited a repeated pattern of violating this section or ORS 646.639**
7 **within the five years before the date of the application, the director**
8 **shall issue a certificate of registration. If the director finds a repeated**
9 **pattern of violations, the director may deny a certificate of registra-**
10 **tion under this subsection. The director may suspend, revoke or im-**
11 **pose conditions on a certificate of registration under this subsection**
12 **if the director finds that a registrant has exhibited a repeated pattern**
13 **of violating this section or ORS 646.639 or rules the director adopts**
14 **under this section or ORS 646.639.**

15 **“(c) In addition to requiring a debt buyer to obtain a certificate of**
16 **registration under paragraph (a) of this subsection, the director by**
17 **rule may require a debt buyer that operates in this state to obtain a**
18 **certification from a national nonprofit trade association that the di-**
19 **rector identifies as maintaining industry-recognized standards for**
20 **properly managing purchased debt, if the director by rule also accepts**
21 **the body of standards that the national nonprofit trade association**
22 **uses to certify debt buyers as standards for governing the operations**
23 **of debt buyers in this state. In determining whether to accept the**
24 **nonprofit trade association’s body of standards, the director shall**
25 **evaluate the body of standards that is in effect on the operative date**
26 **specified in section 8 of this 2015 Act. The director by rule may accept**
27 **changes that occur in the nonprofit trade association’s standards after**
28 **the operative date specified in section 8 of this 2015 Act if the new**
29 **standards are more stringent in governing the operations of debt**
30 **buyers in this state than were the previous standards.**

1 **“(3)(a) A debt buyer, an assignee of a debt buyer or a debt collector**
2 **that acts as the debt buyer’s agent, while collecting or attempting to**
3 **collect a debt, shall send to the debtor’s last known address within five**
4 **days after an initial communication with the debtor, or at the debtor’s**
5 **request:**

6 **“(A) A notice that states:**

7 **“(i) The amount of the debt;**

8 **“(ii) The date of last payment, if applicable, or the charge-off date;**

9 **“(iii) The charge-off amount, if the debt is an open-end credit ac-**
10 **count;**

11 **“(iv) The name and address of the person to whom the debtor owes**
12 **the debt as of the date of the notice;**

13 **“(v) The name and address of the original creditor in a form that**
14 **reasonably enables the debtor to identify the original creditor; and**

15 **“(vi) That the debt buyer, assignee or debt collector will:**

16 **“(I) Assume that the debt is valid unless the debtor disputes the**
17 **validity of all or a portion of the debt or amount of the debt within**
18 **30 days after receiving the notice; and**

19 **“(II) Obtain in writing a verification of the debt or a copy of a**
20 **judgment against the debtor and mail the verification or the copy of**
21 **the judgment to the debtor if the debtor disputes the validity of all or**
22 **a portion of the debt or amount of the debt within 30 days after re-**
23 **ceiving the notice.**

24 **“(B) A notice that reads substantially as follows, if a consumer re-**
25 **porting agency may include information about the debt in a consumer**
26 **report under 15 U.S.C. 1681c, as in effect on the operative date specified**
27 **in section 8 of this 2015 Act:**

28 **“**
29 **_____**
30 **The law limits the amount of time during which you can be sued**
to collect a debt. Because of the age of your debt,

1 _____ (name of the owner of the debt) will not sue you
2 to collect this debt, but if you do not pay the debt
3 _____ (name of the owner of the debt) may report or
4 continue to report the debt to a credit reporting agency as an unpaid
5 debt.

6 “ _____
7 “(C) A notice that reads substantially as follows, if a consumer re-
8 porting agency may not include information about the debt in a con-
9 sumer report under 15 U.S.C. 1681c, as in effect on the operative date
10 specified in section 8 of this 2015 Act:

11 “ _____
12 The law limits the amount of time during which you can be sued
13 to collect a debt. Because of the age of your debt,
14 _____ (name of the owner of the debt) will not sue you
15 to collect this debt and may not report or continue to report the debt
16 to a credit reporting agency.

17 “ _____
18 “(b) For purposes of paragraph (a) of this subsection, an initial
19 communication with a debtor does not include:

20 “(A) Serving a debtor with process or delivering a complaint or
21 pleading that begins an action against the debtor; or

22 “(B) Sending or delivering a notice or other communication to the
23 debtor that does not specifically relate to collecting a debt from the
24 debtor, including a notice or other communication that state or fed-
25 eral law requires the debt buyer, assignee or debt collector to send or
26 deliver under the Internal Revenue Code or under Title V of the fed-
27 eral Gramm-Leach-Bliley Act, 15 U.S.C. 6801 et seq. or regulations
28 promulgated under the Internal Revenue Code or the federal Gramm-
29 Leach-Bliley Act.

30 “(4) A debt buyer, an assignee of a debt buyer or a debt collector

1 that acts as the debt buyer's agent, while collecting or attempting to
2 collect a debt, may not:

3 “(a) Continue to collect or attempt to collect a debt or a disputed
4 portion of a debt from a debtor who disputed the validity of all or a
5 portion of the debt or the amount of the debt within 30 days after re-
6 ceiving a notice under subsection (3) of this section, if the debt buyer,
7 assignee or debt collector has not mailed to the debtor a written ver-
8 ification of the debt or a copy of a judgment against the debtor, except
9 that a debt buyer, assignee or debt collector may continue to com-
10 municate with a debtor or to collect or attempt to collect a debt within
11 the 30-day period:

12 “(A) Unless or until the debtor disputes the validity of all or a
13 portion of the debt or the amount of the debt;

14 “(B) If the debt buyer's, assignee's or debt collector's communi-
15 cation, collection or attempt to collect the debt does not interfere with
16 the debtor's ability to learn about the debtor's rights under this sec-
17 tion or the debtor's right to dispute the validity of all or a portion of
18 the debt or the amount of the debt; and

19 “(C) If the debt buyer, assignee or debt collector communicates with
20 the debtor or collects or attempts to collect the debt without otherwise
21 violating a provision of this section.

22 “(b) Sell, assign or otherwise transfer a debt to another person if
23 the debtor disputed the validity of all or a portion of the debt or the
24 amount of the debt within 30 days after receiving a notice under sub-
25 section (3) of this section and if the debt buyer, assignee or debt col-
26 lector has not mailed to the debtor a written verification of the debt
27 or a copy of a judgment against the debtor.

28 “(c) Collect or attempt to collect a debt from an open-end credit
29 account that was charged off on or after the operative date specified
30 in section 8 of this 2015 Act if the debtor has requested in writing and

1 the debt buyer, assignee or debt collector has not provided:

2 “(A) A copy of the contract between the debtor and the original
3 creditor or other written evidence that the debtor owes the debt to the
4 original creditor, including a charge-off statement or a periodic billing
5 statement that the original creditor sent to the debtor before the
6 debtor’s default;

7 “(B) The total amount of interest the debt accrued after the date
8 of the charge-off;

9 “(C) The total amount of any fees, including attorney fees, that the
10 debt accrued after the date of the charge-off; and

11 “(D) A statement that lists the complete chain of title for the debt,
12 from the original creditor to the present owner, including the names
13 of each owner and the dates during which each owner owned the debt.

14 “(5) A debtor’s failure to dispute the validity of all or a portion of
15 a debt or the amount of a debt under this section is not an admission
16 of the debtor’s liability for the debt.

17 “(6) To the extent that this section requires or permits a debt buyer
18 to take an action or permits a debtor to communicate with a debt
19 buyer, an assignee of a debt buyer or a debt collector that acts as the
20 debt buyer’s agent may take the action or receive the communication
21 from the debtor.

22 “(7) Violation of this section by a debt buyer, an assignee of a debt
23 buyer or a debt collector that acts as a debt buyer’s agent is an un-
24 lawful practice under ORS 646.607 that is subject to an investigative
25 demand under ORS 646.618 and enforcement under ORS 646.632 and is
26 an unlawful collection practice under ORS 646.639 that is subject to
27 an action under ORS 646.641.

28 “SECTION 2. ORS 646.607 is amended to read:

29 “646.607. A person engages in an unlawful practice if in the course of the
30 person’s business, vocation or occupation the person:

1 “(1) Employs any unconscionable tactic in connection with selling, rent-
2 ing or disposing of real estate, goods or services, or collecting or enforcing
3 an obligation;

4 “(2) Fails to deliver all or any portion of real estate, goods or services
5 as promised, and at a customer’s request, fails to refund money that the
6 customer gave to the person to purchase the undelivered real estate, goods
7 or services and that the person does not retain pursuant to any right, claim
8 or defense the person may assert in good faith. This subsection does not
9 create a warranty obligation and does not apply to a dispute over the quality
10 of real estate, goods or services delivered to a customer;

11 “(3) Violates ORS 401.965 (2);

12 “(4) Violates a provision of ORS 646A.725 to 646A.750;

13 “(5) Violates ORS 646A.530;

14 “(6) Employs a collection practice that is unlawful under ORS 646.639;

15 “(7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or
16 86.732 (1) or (2); or

17 “(8) Violates ORS 646A.093.

18 “(9) **Violates section 1 of this 2015 Act.**

19 “**SECTION 3.** ORS 646.639 is amended to read:

20 “646.639. (1) As used in [*subsection (2) of*] this section:

21 “(a) **‘Commercial creditor’ means a person who in the ordinary**
22 **course of business engages in consumer transactions.**

23 “[*(a)*] (b) ‘Consumer’ means a natural person who purchases or acquires
24 property, services or credit for personal, family or household purposes.

25 “[*(b)*] (c) ‘Consumer transaction’ means a transaction between a consumer
26 and a person [*who*] **that** sells, leases or provides property, services or credit
27 to consumers.

28 “[*(c)*] ‘Commercial creditor’ means a person who in the ordinary course of
29 business engages in consumer transactions.]

30 “(d) ‘Credit’ means [*the right granted by*] **a right that a creditor grants**

1 to a consumer to defer payment of a debt, to incur a debt and defer [its]
2 payment **of the debt**, or to purchase or acquire property or services and
3 defer payment [therefor] **for the property or services**.

4 “(e) ‘Debt’ means [any] **an** obligation or alleged obligation [arising] **that**
5 **arises** out of a consumer transaction.

6 “[f] ‘Debtor’ means a consumer who owes or allegedly owes an obligation
7 arising out of a consumer transaction.]

8 “[g] (f) ‘Debt collector’ means [any person who by any direct or indirect
9 action, conduct or practice, enforces or attempts to enforce an obligation that
10 is owed or due to any commercial creditor, or alleged to be owed or due to any
11 commercial creditor, by a consumer as a result of a consumer transaction.] **a**
12 **person that by direct or indirect action, conduct or practice collects**
13 **or attempts to collect a debt owed, or alleged to be owed, to a com-**
14 **mercial creditor.**

15 “(g) ‘Debtor’ means a consumer who owes or allegedly owes a debt.

16 “(h) ‘Person’ means an individual, corporation, trust, partnership, incor-
17 porated or unincorporated association or any other legal entity.

18 “[2] It shall be an unlawful collection practice for a debt collector, while
19 collecting or attempting to collect a debt to do any of the following:]

20 “(2) **A debt collector may not, while collecting or attempting to**
21 **collect a debt:**

22 “(a) Use or threaten [the] **to** use [of] force or violence to cause physical
23 harm to a debtor or to the debtor’s family or property.

24 “(b) Threaten arrest or criminal prosecution.

25 “(c) [Threaten the seizure, attachment or sale of] **Threaten to seize, at-**
26 **tach or sell** a debtor’s property [when such action can only be taken pursuant
27 to] **if doing so requires a** court order [without disclosing] **and the debt**
28 **collector does not disclose** that **seizing, attaching or selling the**
29 **debtor’s property requires** prior court proceedings [are required].

30 “(d) Use profane, obscene or abusive language in communicating with a

1 debtor or **any member of** the debtor's family.

2 “(e) Communicate with [*the*] a debtor or any member of the debtor's
3 family repeatedly or continuously or at times known to be inconvenient to
4 [*that person*] **the debtor or any member of the debtor's family and** with
5 intent to harass or annoy the debtor or any member of the debtor's family.

6 “(f) Communicate or threaten to communicate with a debtor's employer
7 concerning the nature or existence of the debt.

8 “(g) [*Communicate without the debtor's permission or threaten to commu-*
9 *nicate with the*] **Communicate or threaten to communicate with a** debtor
10 at the debtor's place of employment **without the debtor's permission** if the
11 place **of employment** is other than the debtor's residence, except that the
12 debt collector may:

13 “(A) Write to [*the*] a debtor at the debtor's place of employment if [*no*]
14 a home address is **not** reasonably available and if the envelope does not re-
15 veal that the communication is from a debt collector other than [*a provider*
16 *of*] **the person that provided** the goods, services or credit from which the
17 debt arose.

18 “(B) Telephone a debtor's place of employment without informing any
19 other person of the nature of the call or identifying the caller as a debt
20 collector but only if the debt collector in good faith has made an unsuc-
21 cessful attempt to telephone the debtor at the debtor's residence during the
22 day or during the evening between the hours of 6 p.m. and 9 p.m. The debt
23 collector may not contact the debtor at the debtor's place of employment
24 more frequently than once each business week and may not telephone the
25 debtor at the debtor's place of employment if the debtor notifies the debt
26 collector not to telephone at the debtor's place of employment or if the debt
27 collector knows or has reason to know that the debtor's employer prohibits
28 the debtor from receiving such communication. For the purposes of this
29 subparagraph, any language in any **agreement, contract or** instrument
30 [*creating*] **that creates or is evidence of** the debt [*which*] **and that** purports

1 to authorize telephone calls at the debtor's place of employment [*shall not*
2 *be considered as giving*] **does not give** permission to the debt collector to
3 call the debtor at the debtor's place of employment.

4 “(h) Communicate with [*the*] **a** debtor in writing without clearly identi-
5 fying the name of the debt collector, the name of the person, if any, for whom
6 the debt collector is attempting to collect the debt and the debt collector's
7 business address, on all initial communications. In subsequent communi-
8 cations involving multiple accounts, the debt collector may eliminate the
9 name of the person, if any, for whom the debt collector is attempting to
10 collect the debt[,] and **may substitute** the term 'various' [*may be substituted*
11 *in its place*] **in place of the person's name.**

12 “(i) Communicate **directly** with [*the*] **a** debtor [*orally*] **in an oral con-**
13 **versation** without disclosing to the debtor, within 30 seconds **after begin-**
14 **ning the communication**, the name of the individual [*making the contact*]
15 **who is initiating the communication** and the true purpose [*thereof*] **of the**
16 **communication.**

17 “(j) [*Cause*] **Conceal the true purpose of a communication so as to**
18 **cause** any expense to [*the*] **a** debtor in the form of long distance telephone
19 calls, telegram fees or other charges [*incurred by*] **the debtor might incur**
20 **in using** a medium of communication[, *by concealing the true purpose of the*
21 *debt collector's communication*].

22 “(k) Attempt to or threaten to enforce a right or remedy [*with knowledge*
23 *or*] **that the debt collector knows or has** reason to know [*that the right*
24 *or remedy*] does not exist, or threaten to take any action [*which*] **that** the
25 debt collector **does not take** in the regular course of business [*does not*
26 *take*].

27 “(L) Use [*any*] **a** form of communication [*which*] **that** simulates legal or
28 judicial process or [*which gives the appearance of being*] **that appears to be**
29 authorized, issued or approved by a governmental agency, governmental of-
30 ficial or an [*attorney at law when it is not in fact so approved or*

1 *authorized]* **attorney-at-law if a governmental agency, governmental**
2 **official or attorney-at-law has not in fact authorized or approved the**
3 **communication.**

4 “(m) Represent that an existing debt may be increased by the addition of
5 attorney fees, investigation fees or any other fees or charges [*when such*] **if**
6 **the** fees or charges may not legally be added to the existing debt.

7 “(n) Collect or attempt to collect [*any*] interest or [*any other*] charges or
8 fees [*in excess of*] **that exceed** the actual debt, unless [*they are expressly*
9 *authorized by the agreement creating the debt or expressly allowed by law*] **the**
10 **agreement, contract or instrument that creates the debt expressly**
11 **authorizes, or a law expressly allows, the interest or other charges or**
12 **fees.**

13 “(o) Threaten to assign or sell [*the*] a debtor’s account [*with an attending*
14 *misrepresentation or implication*] **and misrepresenting or implying** that the
15 debtor would lose any defense to the debt or would be subjected to harsh,
16 vindictive or abusive collection tactics.

17 “(p) Use the seal or letterhead of a public official or a public agency, as
18 those terms are defined in ORS 171.725.

19 “(q) **Bring an action to collect a debt if no reasonable basis exists**
20 **under law for the debt collector to claim to have brought the action**
21 **within an applicable statute of limitations.**

22 “(r) **Engage in an act or practice prohibited by this subsection when**
23 **communicating with a person that the debt collector believes is or**
24 **might be a debtor.**

25 “(s) **Purchase delinquent or charged-off debt for the purpose of**
26 **collecting the debt without first registering with the Department of**
27 **Consumer and Business Services under section 1 of this 2015 Act.**

28 “(3) [*It shall be an unlawful collection practice for*] A debt collector, by
29 use of any direct or indirect action, conduct or practice, [*to*] **may not** en-
30 force or attempt to enforce an obligation [*made*] **that is** void and

1 unenforceable *[by the provisions of]* **under** ORS 759.720 (3) to (5).

2 **“(4) A debt collector’s violation of subsection (2) or (3) of this sec-**
3 **tion is an unlawful debt collection practice that is subject to an action**
4 **under ORS 646.641.**

5 **“SECTION 4.** ORS 646.641 is amended to read:

6 **“646.641. (1) As used in this section, ‘appropriate court’ means the**
7 **circuit court of a county:**

8 **“(a) In which one or more of the defendants in an action under this**
9 **section reside;**

10 **“(b) In which one or more of the defendants in an action under this**
11 **section maintain a principal place of business;**

12 **“(c) In which a plaintiff in an action under this section alleges that**
13 **one or more of the defendants in the action used or employed an un-**
14 **lawful collection practice.**

15 **“[(1)] (2) [Any] A person that is injured as a result of another person’s**
16 **willful use or employment [by another person] of an unlawful collection**
17 **practice may bring an action in an appropriate court to enjoin the practice**
18 **or to recover actual damages or \$200, whichever is greater. The court or the**
19 **jury may award punitive damages, and the court may provide such equitable**
20 **relief as [it] the court deems necessary or proper.**

21 **“[(2) In any action brought by a person under this section, the court may**
22 **award reasonable attorney fees to the prevailing party.]**

23 **“[(3) Actions brought under this section shall be commenced within one**
24 **year from the date of the injury.]**

25 **“(3) The court may award reasonable attorney fees and costs at trial**
26 **and on appeal to the prevailing party in an action under this section.**

27 **“(4) A person that brings an action under this section must bring**
28 **the action within one year after the date of the injury.**

29 **“(5) A defendant in an action under this section is not liable if the**
30 **defendant shows by a preponderance of the evidence that the defend-**

1 **ant did not intend to engage in an unlawful debt collection practice,**
2 **the violation was not material and that the defendant’s actions re-**
3 **sulted from bona fide scrivener’s error despite the defendant’s main-**
4 **tenance of procedures reasonably adapted to avoid the error.**

5 **“SECTION 5.** ORS 697.005 is amended to read:

6 “697.005. As used in ORS 697.005 to 697.095:

7 “(1)(a) ‘Collection agency’ means:

8 “(A) A person **that** directly or indirectly [*engaged*] **engages** in soliciting
9 a claim for collection, or collecting or attempting to collect a claim that is
10 owed, due or asserted to be owed or due to another person or to a public
11 body at the time the person solicits, collects or attempts to collect the claim;

12 “(B) A person that directly or indirectly furnishes, attempts to furnish,
13 sells or offers to sell forms represented to be a collection system even if the
14 forms direct the debtor to make payment to the creditor and even if the
15 **creditor may or does use the** forms [*may be or are actually used by the*
16 *creditor*] in the creditor’s own name;

17 “(C) A person that, in attempting to collect or in collecting the person’s
18 own claim, uses a fictitious name or any name other than the person’s own
19 **name that conveys an impression** [*indicates*] to the debtor that a third
20 person is collecting or attempting to collect the claim;

21 “(D) A person [*in the business of engaging*] **that engages** in the [*solic-*
22 *itation of*] **business of soliciting** the right to repossess or in repossessing
23 collateral security due or asserted to be due to another person; or

24 “(E) A person that, in [*the collection of*] **collecting** claims from another
25 person:

26 “(i) Uses any name other than the name regularly used in the conduct
27 of the business out of which the claim arose; and

28 “(ii) Engages in any action or conduct that tends to convey the im-
29 pression that a third party has been employed or engaged to collect the
30 claim.

1 “(b) ‘Collection agency’ does not include:

2 “(A) An individual [*engaged*] **who engages** in soliciting claims for col-
3 lection, or [*collecting or attempting*] **who collects or attempts** to collect
4 claims on behalf of a registrant under ORS 697.005 to 697.095, if the indi-
5 vidual is an employee of the registrant.

6 “(B) An individual [*collecting or attempting*] **who collects or attempts**
7 to collect claims for not more than three employers, if the individual carries
8 on all collection efforts in the name of the employer and the individual is
9 an employee of the employer.

10 “(C) A person that prepares or mails monthly or periodic statements of
11 accounts due on behalf of another person if all payments are made to the
12 other person and the person that prepares the statements of accounts does
13 not make other collection efforts.

14 “(D) An attorney-at-law [*rendering*] **who renders** services in [*the per-*
15 *formance of*] **performing** the duties of an attorney-at-law.

16 “(E) A licensed certified public accountant or public accountant [*render-*
17 *ing services in the performance of*] **performing** the duties of a licensed cer-
18 tified public accountant or public accountant.

19 “(F) A bank, mutual savings bank, consumer finance company, trust
20 company, savings and loan association, credit union or debt consolidation
21 agency.

22 “(G) A principal real estate broker **that is** licensed under ORS 696.020,
23 [*as*] **with respect** to any collection or billing activity that involves a real
24 estate closing escrow, as defined in ORS 696.505.

25 “(H) An escrow agent licensed under ORS 696.511, with respect to the
26 escrow agent’s:

27 “(i) Collection or billing activities [*involved in*] **that are related to**
28 closing an escrow, as defined in ORS 696.505, or related to a collection
29 escrow, as defined in ORS 696.505; or

30 “(ii) Service as a trustee of a trust deed in accordance with ORS 86.713.

1 “(I) An individual **who is** regularly employed as a credit person or in a
2 similar capacity by one person, firm or corporation that is not a collection
3 agency [*as defined in this section*].

4 “(J) A public officer or a person [*acting*] **that acts** under order of a court.

5 “(K) A person [*acting*] **that acts** as a property manager in collecting or
6 billing for rent, fees, deposits or other sums due landlords of managed units.

7 “(L) A person that [*is providing*] **provides** billing services. A person [*is*
8 *providing*] **provides** billing services for the purposes of this subparagraph if
9 the person engages, directly or indirectly, in the business or pursuit of [*col-*
10 *lection of*] **collecting** claims for another person, whether in the other
11 person’s name or any other name, by any means that:

12 “(i) [*Is*] **Uses** an accounting procedure, preparation of mail billing or any
13 other means intended to accelerate cash flow to the other person’s bank ac-
14 count or to any separate trust account; and

15 “(ii) Does not include any personal contact or contact by telephone with
16 the person from whom the claim is sought to be collected.

17 “(M) A person that [*is providing*] **provides** factoring services. A person
18 [*is providing*] **provides** factoring services for the purposes of this subpara-
19 graph if the person engages, directly or indirectly, in the business or pursuit
20 of:

21 “(i) Lending or advancing money to commercial clients on the security
22 of merchandise or accounts receivable and then enforcing collection actions
23 or procedures [*on such accounts*] **for the loans or advances**; or

24 “(ii) Soliciting or collecting on accounts that have been purchased from
25 commercial clients under an agreement, whether or not the agreement:

26 “(I) Allows recourse against the commercial client;

27 “(II) Requires the commercial client to provide any form of guarantee of
28 payment of the purchased account; or

29 “(III) Requires the commercial client to establish or maintain a reserve
30 account in any form.

1 “(N) An individual employed by [*another*] **a** person that operates as a
2 collection agency [*if the person does not operate as a collection agency inde-*
3 *pendent of that employment*], **unless the individual operates an independ-**
4 **ent collection agency while employed by the person that operates as**
5 **a collection agency.**

6 “(O) A mortgage banker as defined in ORS 86A.100.

7 “(P) A public utility, as defined in ORS 757.005, a telecommunications
8 utility, as defined in ORS 759.005, a people’s utility district, as defined in
9 ORS 261.010, [*and*] **or** a cooperative corporation engaged in furnishing elec-
10 tric or communication service to consumers.

11 “(Q) A public body or an individual [*collecting or attempting*] **that col-**
12 **lects or attempts** to collect claims owed, due or asserted to be owed or due
13 to a public body, if the individual is an employee of the public body.

14 “(R) A person that receives an assignment of debt in any form without
15 an obligation to pay the assignor any of the proceeds resulting from a col-
16 lection of all or a portion of the debt.

17 “(S) **A person that engages in the business of purchasing delinquent**
18 **or charged-off debt for the purpose of collecting the debt.**

19 “[(S)] (T) A person for whom the Director of the Department of Consumer
20 and Business Services determines by order or by rule that [*the protection of*]
21 **protecting** the public health, safety and welfare does not require registra-
22 tion with the Department **of Consumer and Business Services** as a col-
23 lection agency.

24 “(2) ‘Collection system’ means a scheme intended or calculated to be used
25 to collect claims sent, prepared or delivered by:

26 “(a) A person [*who*] **that** in collecting or attempting to collect the
27 person’s own claim uses a fictitious name or any name other than the
28 person’s own that indicates to the debtor that a third person is collecting
29 or attempting to collect the claim; or

30 “(b) A person **that is** directly or indirectly engaged in soliciting claims

1 for collection, or collecting or attempting to collect claims owed or due or
2 asserted to be owed or due another person.

3 “(3) ‘Claim’ means an obligation [*for the payment of*] **to pay** money or
4 [*thing of value arising*] **value if the obligation arises** out of an agreement
5 or contract, express or implied.

6 “(4) ‘Client’ or ‘customer’ means a person [*authorizing or employing*] **that**
7 **authorizes or employs** a collection agency to collect a claim.

8 “(5) ‘Debtor’ means a person [*owing*] **that owes**, or **is** alleged to owe, a
9 claim.

10 “[*(6) ‘Debts incurred outside this state’ means an action or proceeding*
11 *that:*]

12 “[*(a) Arises out of a promise, made anywhere to the plaintiff or a third*
13 *party for the plaintiff’s benefit, by the defendant to perform services outside*
14 *of this state or to pay for services to be performed outside of this state by the*
15 *plaintiff;*]

16 “[*(b) Arises out of services actually performed for the plaintiff by the de-*
17 *fendant outside of this state or services actually performed for the defendant*
18 *by the plaintiff outside of this state, if the performance outside of this state*
19 *was authorized or ratified by the defendant;*]

20 “[*(c) Arises out of a promise, made anywhere to the plaintiff or a third*
21 *party for the plaintiff’s benefit, by the defendant to deliver or receive outside*
22 *of this state or to send from outside of this state goods, documents of title or*
23 *other things of value;*]

24 “[*(d) Relates to goods, documents of title or other things of value sent from*
25 *outside of this state by the defendant to the plaintiff or a third person on the*
26 *plaintiff’s order or direction;*]

27 “[*(e) Relates to goods, documents of title or other things of value actually*
28 *received outside of this state by the plaintiff from the defendant or by the de-*
29 *fendant from the plaintiff, without regard to where delivery to carrier oc-*
30 *curred; or*]

1 “[(f) *Where jurisdiction at the time the debt was incurred was outside of*
2 *this state.*]

3 “[(7)] **(6)(a)** ‘Out-of-state collection agency’ means a collection agency lo-
4 cated outside of this state [*whose*] **the activities of which**, within this
5 state, are limited to collecting [*debts incurred outside of this state from*
6 *debtors*] **a debt that a debtor** located in this state **incurs outside this**
7 **state.**

8 “(b) As used in this subsection, ‘collecting [*debts*] **a debt**’ means collect-
9 ing **a debt on behalf of clients located outside this state** by means of
10 interstate communications, including telephone, mail or facsimile trans-
11 mission, from the collection [*agency*] **agency’s** location in another state [*on*
12 *behalf of clients located outside of this state*].

13 “[(8)] **(7)** ‘Person’ means an individual, firm, partnership, trust, joint
14 venture, association, limited liability company or corporation.

15 “[(9)] **(8)** ‘Public body’ **has the meaning given that term in ORS**
16 **174.109.** [*means:*]

17 “[(a) *The state and any branch, department, agency, board or commission*
18 *of the state;*]

19 “[(b) *A city, county, district or other political subdivision or municipal or*
20 *public corporation or an instrumentality thereof; and*]

21 “[(c) *An intergovernmental agency, department, council, joint board of con-*
22 *trol created under ORS 190.125 or other like entity that is created under ORS*
23 *190.003 to 190.130 and that does not act under the direction and control of any*
24 *single member government.*]

25 “[(10)] **(9)** [‘Registered’ or] ‘Registrant’ means a person **that is** registered
26 under ORS 697.005 to 697.095 or **that is** registered or licensed as a collection
27 agency under the laws of another state.

28 “[(11)] **(10)** ‘Statement of account’ means a report [*setting*] **that sets** forth
29 amounts billed, invoices, credits allowed or aged balance due.

30 “**SECTION 6. Notwithstanding any other provision of law, ORS**

1 646.639, 646.641 and 646.643 shall not be considered to have been added
2 to or made a part of ORS 646.605 to 646.652 for the purpose of statutory
3 compilation or for the application of definitions, penalties or adminis-
4 trative provisions applicable to statute sections in that series.

5 **“SECTION 7.** Section 1 of this 2015 Act and the amendments to ORS
6 646.607, 646.639, 646.641 and 697.005 by sections 2 to 5 of this 2015 Act
7 apply to legal actions that begin on or after the operative date speci-
8 fied in section 8 of this 2015 Act.

9 **“SECTION 8.** (1) Section 1 of this 2015 Act and the amendments to
10 ORS 646.607, 646.639, 646.641 and 697.005 by sections 2 to 5 of this 2015
11 Act become operative January 1, 2016.

12 **“(2)** The Director of the Department of Consumer and Business
13 Services may adopt rules and take any other action before the opera-
14 tive date specified in subsection (1) of this section that is necessary
15 to enable the director, on and after the operative date specified in
16 subsection (1) of this section, to exercise all of the duties, functions
17 and powers conferred on the director by section 1 of this 2015 Act and
18 the amendments to ORS 646.607, 646.639, 646.641 and 697.005 by sections
19 2 to 5 of this 2015 Act.

20 **“SECTION 9.** This 2015 Act being necessary for the immediate
21 preservation of the public peace, health and safety, an emergency is
22 declared to exist, and this 2015 Act takes effect on its passage.”.

23