

## **HB 2356 -4 STAFF MEASURE SUMMARY**

### **House Committee On Business and Labor**

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**Prepared By:** Jan Nordlund, LPRO Analyst

**Meeting Dates:** 3/27, 4/12, 4/14

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#### **WHAT THE MEASURE DOES:**

Establishes requirements under which debt buyer may bring legal action to collect debt. Specifies notice that debt buyer must provide to debtor. Makes violation of requirements an unlawful collection practice.

#### **ISSUES DISCUSSED:**

#### **EFFECT OF AMENDMENT:**

-4 (Adopted 4-12) Replaces original measure. Establishes required content of initial pleading provided by debt buyer or debt collector on behalf of debt buyer bringing legal action to collect debt. Establishes required content of affidavit debt buyer or debt collector on behalf of debt buyer must provide when seeking default or summary judgment. Prohibits court from entering judgment if debt buyer or debt collector on behalf of debt buyer does not comply with these requirements. Allows debt buyer or debt collector on behalf of debt buyer to obtain attorney fees only under specified circumstances. Requires debt buyer or debt collector acting on debt buyer's behalf to provide requested documents to debtor within 30 days. Modifies what constitutes an unlawful collection practice. Requires debt buyer to be licensed by Department of Consumer and Business Services. Allows DCBS to set license fee through administrative rule. Requires debt buyer to carry errors and omissions insurance. Requires debt buyer to maintain principal place of business in Oregon and registered agent in Oregon. Requires debt buyer to display license number at each of its business locations and on all promotional materials and communications. Allows DCBS to investigate and initiate administrative proceedings regarding debt buyers. Requires DCBS to notify Attorney General when reason to believe person has conducted unlawful collection practice. Allows DCBS to take enforcement action if AG or DOJ do not respond within 45 days of notification. Allows these two agencies to cooperate in enforcement action. Except for specified exceptions, Act applies to debts sold or resold before, on or after operative date of January 1, 2018.

#### **BACKGROUND:**

Debt collection practices are governed by both federal and state regulations. In Oregon, the statutes defining unlawful collection practices apply only to debt collectors and not debt buyers. Unlike a debt collector who collects a debt on behalf of a creditor, the debt buyer owns the debt and is collecting on their own behalf. Collection practices are enforced by the Attorney General and the District Attorneys. Anyone injured as a result of an unlawful collection practice may bring an action in court to enjoin the practice and to recover actual damages or \$200, whichever is greater. The court or the jury may award punitive damages, and the court may provide equitable relief and award attorney fees to the prevailing party.

House Bill 2356 brings debt buyers under the definition of debt collectors, subjecting them to claims of unlawful collection practices. In addition, the measure provides that a debt buyer has engaged in an unlawful collection practice if the specified requirements are not met when bringing legal action to collect a debt. It also establishes that This Summary has not been adopted or officially endorsed by action of the committee.

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it is an unlawful collection practice for a debt buyer to bring legal action when they reasonable should know that the statute of limitation bars the action or collection attempt, or to bring legal action without possessing the specified valid documentation, or to not provide the debtor with a receipt after any payment is received.

PRELIMINARY