

**B-Engrossed**  
**House Bill 2356**

Ordered by the House June 29  
Including House Amendments dated April 18 and June 29

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Attorney General Ellen Rosenblum)

**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.

Establishes requirements under which debt buyer or debt collector that acts on a debt buyer's behalf may bring legal action to collect debt. Specifies notice that debt buyer must give to debtor and documents that debt buyer must give to debtor at debtor's request. Makes violation of requirements unlawful collection practice.

Requires person that engages in debt buying in this state to obtain or renew license from Director of Department of Consumer and Business Services. Specifies requirements for applying for, issuing and renewing license and conditions under which director may deny, suspend, revoke or decline to renew license.

Specifies duties and prohibited conduct for licensee. Permits director to order licensee or person that engages in debt buying to cease and desist from violating Act, impose civil penalty for violation or take other action to remedy violation.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

**A BILL FOR AN ACT**

1  
2 Relating to debt collection practices; creating new provisions; amending ORS 646.639; and prescrib-  
3 ing an effective date.

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

5 **SECTION 1. (1) A debt buyer that brings legal action to collect or brings legal action to**  
6 **attempt to collect purchased debt, or a debt collector that brings legal action on the debt**  
7 **buyer's behalf, shall include in an initial pleading that begins the legal action:**

8 (a) **The original creditor's name, written as the original creditor used the name in**  
9 **dealings with the debtor;**

10 (b) **The name, address and telephone number of the person that owns the debt and a**  
11 **statement as to whether the person is a debt buyer;**

12 (c) **The last four digits of the original creditor's account number for the debt, if the ori-**  
13 **ginal creditor's account number for the debt had four or more digits;**

14 (d) **A detailed and itemized statement that shows:**

15 (A) **The amount the debtor last paid on the debt, if the debtor made a payment, and the**  
16 **date of the payment;**

17 (B) **The amount and date of the debtor's last payment on the debt before the debtor de-**  
18 **faulted or before the debt became charged-off debt, if the debtor made a payment;**

19 (C) **The balance due on the debt on the date on which the debt became charged-off debt;**

20 (D) **The amount and rate of interest, any fees and any charges that the original creditor**  
21 **imposed, if the debt buyer or debt collector knows the amount, rate, fee or charge;**

**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 (E) The amount and rate of interest, any fees and any charges that the debt buyer or  
2 any previous owner of the debt imposed, if the debt buyer or debt collector knows the  
3 amount, rate, fee or charge;

4 (F) The attorney fees the debt buyer or debt collector seeks, if the debt buyer or debt  
5 collector expects to recover attorney fees; and

6 (G) Any other fee, cost or charge the debt buyer seeks to recover; and

7 (e) The date on which the debt buyer purchased the debt.

8 (2)(a) A court may not enter a judgment for a debt buyer or debt collector that has not  
9 complied with the requirements set forth in this section.

10 (b) If a court grants a judgment for a debt buyer or debt collector that does not comply  
11 with the requirements set forth in this section, the debtor in a motion under ORCP 71 may  
12 petition the court for relief from the judgment or the court may grant relief on the court's  
13 own motion.

14 (3) A debt buyer or debt collector may obtain attorney fees in a legal action to collect  
15 or attempt to collect a debt only if:

16 (a) The debt buyer or debt collector prevails in the legal action; and

17 (b) The contract or writing described in ORS 646.639 (4)(b) provides that the creditor may  
18 obtain attorney fees from the debtor in a legal action to collect or attempt to collect the debt  
19 or another provision of law allows an award of attorney fees to the debt buyer or debt col-  
20 lector.

21 (4) A debt buyer or a debt collector that acts on the debt buyer's behalf shall provide to  
22 a debtor all of the documents described in ORS 646.639 (4)(b) within 30 days after receiving  
23 a request for information about the debt from the debtor.

24 **SECTION 2.** ORS 646.639 is amended to read:

25 646.639. (1) As used in [subsection (2) of] this section and section 1 of this 2017 Act:

26 (a) **"Charged-off debt"** means a debt that a creditor treats as a loss or expense and not  
27 as an asset.

28 [(a)] (b) **"Consumer"** means a natural person who purchases or acquires property, services or  
29 credit for personal, family or household purposes.

30 [(b)] (c) **"Consumer transaction"** means a transaction between a consumer and a person [who]  
31 that sells, leases or provides property, services or credit to consumers.

32 [(c) *"Commercial creditor" means a person who in the ordinary course of business engages in*  
33 *consumer transactions.*]

34 [(d)] (d) **"Credit"** means [the right granted by] a right that a creditor grants to a consumer to  
35 defer payment of a debt, to incur a debt and defer [its] payment of the debt, or to purchase or ac-  
36 quire property or services and defer payment [therefor] for the property or services.

37 (e) **"Creditor"** means a person that, in the ordinary course of the person's business, en-  
38 gages in consumer transactions that result in a consumer owing a debt to the person.

39 [(e)] (f) **"Debt"** means [any] an obligation or alleged obligation [arising] that arises out of a  
40 consumer transaction.

41 [(f) *"Debtor" means a consumer who owes or allegedly owes an obligation arising out of a con-*  
42 *sumer transaction.*]

43 (g)(A) **"Debt buyer"** means a person that regularly engages in the business of purchasing  
44 charged-off debt for the purpose of collecting the charged-off debt or hiring another person  
45 to collect or bring legal action to collect the charged-off debt.

1       **(B) “Debt buyer” does not include a person that acquires charged-off debt as an inci-**  
2 **dental part of acquiring a portfolio of debt that is predominantly not charged-off debt.**

3       [(g)] **(h) “Debt collector” means [any person who by any direct or indirect action, conduct or**  
4 **practice, enforces or attempts to enforce an obligation that is owed or due to any commercial creditor,**  
5 **or alleged to be owed or due to any commercial creditor, by a consumer as a result of a consumer**  
6 **transaction.] a person that by direct or indirect action, conduct or practice collects or at-**  
7 **tempts to collect a debt owed, or alleged to be owed, to a creditor or debt buyer.**

8       **(i) “Debtor” means a consumer who owes or allegedly owes a debt, including a consumer**  
9 **who owes an amount that differs from the amount that a debt collector attempts to collect**  
10 **or that a debt buyer purchased or attempts to collect.**

11       **(j) “Legal action” means a lawsuit, mediation, arbitration or any other proceeding in any**  
12 **court, including a small claims court.**

13       **(k) “Original creditor” means the last entity that extended credit to a consumer to pur-**  
14 **chase goods or services, to lease goods or as a loan of moneys.**

15       [(h)] **(L) “Person” means an individual, corporation, trust, partnership, incorporated or**  
16 **unincorporated association or any other legal entity.**

17       (2) [It shall be an unlawful collection practice for] A debt collector **engages in an unlawful**  
18 **collection practice if the debt collector**, while collecting or attempting to collect a debt, **does [to**  
19 **do] any of the following:**

20       (a) [Use or threaten the use of] **Uses or threatens to use** force or violence to cause physical  
21 harm to a debtor or to the debtor’s family or property.

22       (b) [Threaten] **Threatens** arrest or criminal prosecution.

23       (c) [Threaten the seizure, attachment or sale of] **Threatens to seize, attach or sell** a debtor’s  
24 property [when such action can only be taken pursuant to] **if doing so requires a court order [with-**  
25 **out disclosing that] and the debt collector does not disclose that seizing, attaching or selling**  
26 **the debtor’s property requires** prior court proceedings [are required].

27       (d) [Use] **Uses** profane, obscene or abusive language in communicating with a debtor or the  
28 debtor’s family.

29       (e) [Communicate] **Communicates** with [the] a debtor or any member of the debtor’s family re-  
30 peatedly or continuously or at times known to be inconvenient to [that person] **the debtor or any**  
31 **member of the debtor’s family and** with intent to harass or annoy the debtor or any member of  
32 the debtor’s family.

33       (f) [Communicate or threaten] **Communicates or threatens** to communicate with a debtor’s  
34 employer concerning the nature or existence of the debt.

35       (g) [Communicate] **Communicates** without [the] a debtor’s permission or [threaten] **threatens** to  
36 communicate with the debtor at the debtor’s place of employment if the place **of employment** is  
37 other than the debtor’s residence, except that the debt collector may:

38       (A) Write to the debtor at the debtor’s place of employment if [no] a home address is **not** rea-  
39 sonably available and if the envelope does not reveal that the communication is from a debt col-  
40 lector other than [a provider of] **the person that provided** the goods, services or credit from which  
41 the debt arose.

42       (B) Telephone a debtor’s place of employment without informing any other person of the nature  
43 of the call or identifying the caller as a debt collector but only if the debt collector in good faith  
44 has made an unsuccessful attempt to telephone the debtor at the debtor’s residence during the day  
45 or during the evening between the hours of 6 p.m. and 9 p.m. The debt collector may not contact

1 the debtor at the debtor's place of employment more frequently than once each business week and  
 2 may not telephone the debtor at the debtor's place of employment if the debtor notifies the debt  
 3 collector not to telephone at the debtor's place of employment or if the debt collector knows or has  
 4 reason to know that the debtor's employer prohibits the debtor from receiving such communication.  
 5 For the purposes of this subparagraph, any language in any **agreement, contract or instrument**  
 6 *[creating] that creates or is evidence of the debt [which] and that* purports to authorize telephone  
 7 calls at the debtor's place of employment *[shall not be considered as giving]* **does not give** permis-  
 8 sion to the debt collector to call the debtor at the debtor's place of employment.

9 (h) *[Communicate]* **Communicates** with *[the]* a debtor in writing without clearly identifying the  
 10 name of the debt collector, the name of the person, if any, for whom the debt collector is attempting  
 11 to collect the debt and the debt collector's business address, on all initial communications. In sub-  
 12 sequent communications involving multiple accounts, the debt collector may eliminate the name of  
 13 the person, if any, for whom the debt collector is attempting to collect the debt[,] and **substitute**  
 14 the term "various" *[may be substituted in its place]* **in place of the person's name.**

15 (i) *[Communicate]* **Communicates** with *[the]* a debtor orally without disclosing to the debtor,  
 16 within 30 seconds **after beginning the communication**, the name of the individual *[making the*  
 17 *contact]* **who is initiating the communication** and the true purpose *[thereof]* **of the communi-**  
 18 **cation.**

19 (j) *[Cause]* **Conceals the true purpose of the communication so as to cause** any expense to  
 20 *[the]* a debtor in the form of long distance telephone calls, telegram fees, **additional charges for**  
 21 **wireless communication** or other charges *[incurred by]* **the debtor might incur by using** a me-  
 22 dium of communication[, *by concealing the true purpose of the debt collector's communication.*]

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

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

32 (m) *[Represent]* **Represents** that an existing debt may be increased by the addition of attorney  
 33 fees, investigation fees or any other fees or charges *[when such]* **if the** fees or charges may not le-  
 34 gally be added to the existing debt.

35 *[(n) Collect or attempt to collect any interest or any other charges or fees in excess of the actual*  
 36 *debt unless they are expressly authorized by the agreement creating the debt or expressly allowed by*  
 37 *law.]*

38 (n) **Collects or attempts to collect interest or other charges or fees that exceed the ac-**  
 39 **tual debt unless the agreement, contract or instrument that creates the debt expressly au-**  
 40 **thorizes, or a law expressly allows, the interest or other charges or fees.**

41 (o) *[Threaten]* **Threatens** to assign or sell *[the]* a debtor's account *[with an attending misrepre-*  
 42 *sentation or implication]* **and misrepresents or implies** that the debtor would lose any defense to  
 43 the debt or would be subjected to harsh, vindictive or abusive collection tactics.

44 (p) *[Use]* **Uses** the seal or letterhead of a public official or a public agency, as those terms are  
 45 defined in ORS 171.725.

1 (q) Collects or attempts to collect any debt that the debt collector knows, or after exer-  
2 cising reasonable diligence would know, arises from medical expenses that qualify for re-  
3 imbursement under the Oregon Health Plan or under Medicaid, except that:

4 (A) The debt collector does not engage in an unlawful collection practice if the debt col-  
5 lector can produce an affidavit or certificate from the original creditor that shows that the  
6 original creditor complied with Oregon Health Authority rules barring payments for services  
7 that Medicaid fee-for-service plans or contracted health care plans cover; and

8 (B) For purposes of this paragraph, a prepaid managed care health services organization,  
9 a coordinated care organization or a public body, as defined in ORS 174.109, or an agent or  
10 assignee of the organization or public body, is not a debt collector if the organization or  
11 public body seeks to collect a debt that arises under ORS 416.540.

12 (r) Files a legal action to collect or files a legal action to attempt to collect a debt if the  
13 debt collector knows, or after exercising reasonable diligence would know, that an applicable  
14 statute of limitations bars the collection or the collection attempt.

15 (s) Knowingly collects any amount, including any interest fee, charge or expense inci-  
16 dental to the principal obligation, unless the amount is expressly authorized by the agree-  
17 ment creating the debt or permitted by law.

18 (t) Collects or attempts to collect a debt before providing to a debtor, within 30 days after  
19 the date of the debtor's request, all of the documents listed in subsection (4)(b) of this sec-  
20 tion.

21 (3) *[It shall be an unlawful collection practice for]* A debt collector **engages in an unlawful**  
22 **collection practice if the debt collector**, by use of any direct or indirect action, conduct or prac-  
23 tice, *[to enforce or attempt]* **enforces or attempts** to enforce an obligation made void and  
24 unenforceable by the provisions of ORS 759.720 (3) to (5).

25 (4) A debt buyer or debt collector acting on behalf of a debt buyer engages in an unlawful  
26 collection practice if the debt buyer or debt collector:

27 (a) Files legal action against a debtor or files legal action to attempt to collect a debt if  
28 the debt buyer or debt collector knows or after exercising reasonable diligence would know  
29 that an applicable statute of limitations bars the legal action to collect or the legal action  
30 to attempt to collect the debt;

31 (b) Brings a legal action against a debtor or otherwise brings a legal action to attempt  
32 to collect a debt without possessing business records that satisfy the requirements of ORS  
33 40.460 (6) or ORS 24.115, if the record is a foreign judgment, that establish the nature and  
34 the amount of the debt and that include:

35 (A) The original creditor's name, written as the original creditor used the name in  
36 dealings with the debtor;

37 (B) The name and address of the debtor;

38 (C) The name, address and telephone number of the person that owns the debt and a  
39 statement as to whether the person is a debt buyer;

40 (D) The last four digits of the original creditor's account number for the debt, if the or-  
41 iginal creditor's account number for the debt had four or more digits;

42 (E) A detailed and itemized statement of:

43 (i) The amount the debtor last paid on the debt, if the debtor made a payment, and the  
44 date of the payment;

45 (ii) The amount and date of the debtor's last payment on the debt before the debtor de-

1 faulted or before the debt became charged-off debt;

2 (iii) The balance due on the debt on the date on which the debt became charged-off debt;

3 (iv) The amount and rate of interest, any fees and any charges that the original creditor  
4 imposed, if the debt buyer or debt collector knows the amount, rate, fee or charge;

5 (v) The amount and rate of interest, any fees and any charges that the debt buyer or any  
6 previous owner of the debt imposed, if the debt buyer or debt collector knows the amount,  
7 rate, fee or charge;

8 (vi) The attorney fees the debt buyer or debt collector seeks, if the debt buyer or debt  
9 collector expects to recover attorney fees; and

10 (vii) Any other fee, cost or charge the debt buyer seeks to recover;

11 (F) Evidence that the debt buyer and only the debt buyer owns the debt;

12 (G) The date on which the debt buyer purchased the debt; and

13 (H) A copy of the agreement between the original creditor and the debtor that is either:

14 (i) The contract or other writing the debtor signed that created and is evidence of the  
15 original debt; or

16 (ii) A copy of the most recent monthly statement that shows a purchase transaction or  
17 balance transfer or the debtor's last payment, if the debtor made a payment, if the debt is  
18 a credit card debt or other debt for which a contract or other writing that is evidence of the  
19 debt does not exist;

20 (c) Fails to provide to a debtor, after the debt buyer or debt collector receives payment  
21 in cash or the debtor requests the receipt, a receipt that:

22 (A) Shows the name of the creditor or creditors for whom the debt buyer or debt col-  
23 lector received the payment and, if the creditor is not the original creditor, the account  
24 number that the original creditor assigned; and

25 (B) States clearly whether the debt buyer or debt collector accepts the payment as pay-  
26 ment in full or as a full and final compromise of the debt and, if not, the balance remaining  
27 on the debt after the payment;

28 (d) Collects or attempts to collect a debt before providing, in response to a debtor's re-  
29 quest, the documents required under paragraph (b) of this subsection. A debt buyer or a debt  
30 collector that acts on the debt buyer's behalf does not engage in an unlawful collection  
31 practice under this paragraph if the debt buyer or debt collector collects or attempts to  
32 collect a debt after providing the required documents to the debtor; or

33 (e) Uses any direct or indirect action, conduct or practice to violate a provision of this  
34 section or section 1 of this 2017 Act.

35 (5) A debt collector is not acting on a debt buyer's behalf, and is not subject to the duties  
36 to which a debt buyer is subject under this section and section 1 of this 2017 Act, if the debt  
37 collector collects or attempts to collect a debt on behalf of an owner that retains a direct  
38 interest in the debt or if the debt is not a debt that a debt buyer purchased.

39 **SECTION 3.** As used in sections 3 to 13 of this 2017 Act:

40 (1) "Applicant" means a person that applies for a license to engage in business as a debt  
41 buyer in this state.

42 (2) "Controller" means:

43 (a) A director, officer or general partner of a business entity;

44 (b) A managing member of a limited liability company;

45 (c) A person that has a direct or indirect right to vote 10 percent or more of the secu-

1 rities of a business entity that have voting rights or the power to sell or cause the sale of  
2 10 percent or more of any class of a business entity's securities;

3 (d) A person that has contributed 10 percent or more to a partnership's capital or has  
4 the right to receive a distribution of 10 percent or more of a partnership's capital or assets  
5 upon dissolution; or

6 (e) A person that, under the terms of a contract or because the person has an ownership  
7 interest in another person, has the power to manage or set policies for the other person, or  
8 otherwise direct the other person's operations or affairs.

9 (3) "Debt buyer" has the meaning given that term in ORS 646.639.

10 (4) "Debt buying" means conducting business as a debt buyer or conducting business  
11 activities that are subject to regulation under ORS 646.639 (4) and sections 1 and 3 to 13 of  
12 this 2017 Act.

13 (5) "Debtor" has the meaning given that term in ORS 646.639.

14 (6) "Legal action" has the meaning given that term in ORS 646.639.

15 (7) "Licensee" means a person that has applied for and obtained a license from the De-  
16 partment of Consumer and Business Services to engage in business as a debt buyer in this  
17 state.

18 (8) "Nationwide Multistate Licensing System" has the meaning given that term in ORS  
19 697.500.

20 SECTION 4. (1) Except as provided in subsection (2) of this section, a person may not  
21 engage in debt buying in this state unless the person obtains or renews a license under sec-  
22 tion 5 of this 2017 Act.

23 (2)(a) A person need not obtain or renew a license under subsection (1) of this section if  
24 the person is:

25 (A) A financial institution, as defined in ORS 706.008;

26 (B) A mortgage banker or a mortgage broker, both terms as defined in ORS 86A.100;

27 (C) A person that has a license the Director of the Department of Consumer and Busi-  
28 ness Services issued under ORS 725.140;

29 (D) A company that the director has authorized to transact trust business in this state  
30 under ORS 709.005;

31 (E) A debt management service provider, as defined in ORS 697.602;

32 (F) An attorney who is authorized to practice law in this state, if the attorney engages  
33 in debt buying only incidentally in the practice of law; or

34 (G) A person that the director exempts from the requirement by rule or order after de-  
35 termining that the public interest does not require the person to obtain a license.

36 (b) This subsection does not exempt a person from the requirement set forth in sub-  
37 section (1) of this section if the person engages in business or conducts an activity outside  
38 the scope of the person's license, registration or authorization to transact business in this  
39 state.

40 SECTION 5. (1)(a) A person that is subject to the requirement to obtain or renew a li-  
41 cense under section 4 (1) of this 2017 Act shall submit an application to the Director of the  
42 Department of Consumer and Business Services in the manner the director specifies by rule.  
43 The director by rule shall specify the format and contents of the application form. At a  
44 minimum, the rules must require an applicant or licensee to:

45 (A) List the applicant's or licensee's name and address and all assumed business names

1 or other names the applicant or licensee has used in the course of engaging in debt buying  
2 or otherwise purchasing debt.

3 (B) List the name and address of the applicant's or licensee's registered agent in this  
4 state or another person that serves as the applicant's or licensee's agent for accepting ser-  
5 vice of process in this state.

6 (C) List the names and addresses of the applicant's or licensee's directors, members, of-  
7 ficers, managers, partners and controllers.

8 (D) Provide a history of all enforcement actions or administrative, civil or criminal pro-  
9 ceedings that involved a failure by the applicant or licensee or a director, member, officer,  
10 manager, partner or controller of the applicant or licensee to comply with federal or state  
11 law, regulations or rules.

12 (E) List all instances in which the applicant or licensee had a license, registration or  
13 other equivalent authorization to engage in debt buying denied, suspended, conditioned or  
14 revoked, unless the revocation was later rescinded, in this or another state.

15 (F) Disclose for the applicant or licensee and each of the applicant's or licensee's direc-  
16 tors, members, officers, managers, partners and controllers all violations and arrests and  
17 all no contest pleas, guilty pleas and convictions, other than convictions that were later  
18 pardoned, in a federal, state, military or foreign court that involved a felony or a  
19 misdemeanor, if an element of the misdemeanor was a false statement or dishonesty, and  
20 that occurred:

21 (i) In the seven years before the date of an application under this section; or

22 (ii) At any time before the date of an application under this section if the conviction or  
23 plea involved a felony, an element of which was an act of fraud, dishonesty, a breach of trust  
24 or laundering a monetary instrument.

25 (b) The director by rule may require an applicant to apply for a license through the Na-  
26 tionwide Multistate Licensing System and may conform the practices, procedures and infor-  
27 mation the Department of Consumer and Business Services uses to issue or renew a license  
28 under this section with the practices, procedures and information the Nationwide Multistate  
29 Licensing System requires.

30 (c) The director by rule may require an applicant or licensee to submit fingerprints for  
31 any of the applicant's directors, members, officers, managers, partners or controllers and  
32 to undergo a criminal records check as part of an application under this section.

33 (2) An applicant or licensee shall pay, when applying to obtain or renew a license, a  
34 nonrefundable fee in an amount that the director specifies by rule. The director shall specify  
35 an amount for the fee that is sufficient, when aggregated with all other fees collected under  
36 this section, to:

37 (a) Pay the expenses of administering and enforcing ORS 646.639 and sections 1 and 3 to  
38 13 of this 2017 Act; and

39 (b) Establish and maintain a reasonable emergency fund.

40 (3) In addition to the requirements set forth in subsections (1) and (2) of this section, an  
41 applicant or licensee shall file with the director proof that the applicant or licensee maintains  
42 an errors and omissions insurance policy from an insurer that the department has author-  
43 ized to transact insurance in this state with limits that the director determines by rule.

44 (4)(a) The director shall issue or renew a license under this section if the director finds  
45 that:



1 (A) The application is complete and accurate;

2 (B) The applicant or licensee paid any fees required under this section;

3 (C) The applicant or licensee filed and maintains an errors and omissions insurance policy  
4 as provided in subsection (3) of this section;

5 (D) The applicant or licensee has not filed for bankruptcy within the seven years before  
6 the date of the application;

7 (E) The applicant or licensee, or a director, member, officer, manager, partner or con-  
8 troller of the applicant or licensee, has not been indicted for or convicted of a criminal of-  
9 fense and otherwise satisfies the director's standard for passing a criminal background  
10 check;

11 (F) A licensee that seeks to renew a license has complied with any orders the director  
12 issued and paid any penalties the director assessed against the licensee under ORS 646.639  
13 (4) and sections 1 and 3 to 13 of this 2017 Act; and

14 (G) The applicant or licensee, or a director, member, officer, manager, partner or con-  
15 troller of the applicant or licensee, has not, within the seven years before the date of the  
16 application, been subject to or has cooperated or complied with:

17 (i) A final order to cease and desist from a violation of any law, regulation, rule or order  
18 that governs a debt buyer or debt buying in this or another state;

19 (ii) A suspension or revocation of a license, registration or other authorization to engage  
20 in debt buying in this or another state; or

21 (iii) Any other formal or informal enforcement action in this state or another state in  
22 which the governing body found that the applicant or licensee or the director, member, of-  
23 ficer, manager, partner or controller violated an applicable law, regulation, rule or order.

24 (b) In addition to reviewing an applicant's or licensee's application under this section, the  
25 director may conduct an investigation to determine whether the applicant or licensee, and  
26 any of the applicant's or licensee's directors, members, officers, managers, partners or con-  
27 trollers have the financial responsibility, experience, character and general fitness necessary  
28 to command the confidence of the community and warrant a belief that the applicant or  
29 licensee will engage in debt buying honestly, fairly, efficiently and in compliance with ORS  
30 646.639 (4) and sections 1 and 3 to 13 of this 2017 Act.

31 (5)(a) A license the director issues or renews under this section:

32 (A) Must display a unique identifying number or other designation that specifically iden-  
33 tifies the licensee in the director's records; and

34 (B) Expires on December 31 of the calendar year in which the director issues the license.  
35 If a licensee intends to engage in debt buying on or after January 1 of the succeeding cal-  
36 endar year, the licensee shall renew the license before the expiration date.

37 (b) A licensee's directors, members, officers, managers, partners, controllers, employees  
38 and agents have authority to engage in debt buying solely under the terms of a license the  
39 director issues under this section, and, for the purposes of ORS 646.639 (4) and sections 1 and  
40 3 to 13 of this 2017 Act, an action of a licensee's director, member, officer, manager, partner,  
41 controller, employee or agent while engaging in debt buying is an action of the licensee.

42 (6) The director may suspend or revoke a license issued under this section if the director  
43 finds after a hearing in accordance with ORS chapter 183 that:

44 (a) The licensee failed or refused to comply with the director's written request to respond  
45 to a complaint that the licensee violated a provision of ORS 646.639 (4) or of sections 1 and

1 3 to 13 of this 2017 Act;

2 (b) The licensee engaged in an intentional course of conduct to violate state or federal  
3 law or a course of conduct that constitutes fraudulent, deceptive or dishonest dealings; or

4 (c) The licensee failed or refused to comply with a final order the director issued.

5 **SECTION 6.** (1) A licensee shall designate and maintain a principal place of business at  
6 or from which the licensee engages in debt buying in this state and a registered agent in this  
7 state.

8 (2)(a) If a licensee does not maintain a principal place of business in this state, the  
9 licensee shall nevertheless designate a registered agent in this state. The registered agent  
10 must be available to receive on the licensee's behalf any notice, demand or service of process  
11 permitted by law to be given, made or delivered to, or served upon, the licensee.

12 (b) If the licensee does not designate a registered agent in this state, or if the licensee's  
13 registered agent cannot with reasonable diligence be located, the Director of the Department  
14 of Consumer and Business Services is the licensee's registered agent.

15 (3) A licensee may not use or operate under an assumed business name unless the  
16 licensee first registers the assumed business name under ORS chapter 648 and lists the name  
17 on an application under section 5 of this 2017 Act or in a notice to the director under section  
18 7 of this 2017 Act.

19 (4)(a) A licensee shall clearly display the unique identifying number or designation de-  
20 scribed in section 5 (5) of this 2017 Act in each business location the licensee maintains in  
21 accordance with subsection (1) of this section and in any solicitation, advertisement, pro-  
22 motional material, website or other communication the licensee uses in the licensee's busi-  
23 ness.

24 (b) The director by rule may specify for the display required under paragraph (a) of this  
25 subsection:

26 (A) A text size or range of text sizes;

27 (B) A location;

28 (C) Materials on which the display must appear; or

29 (D) Other characteristics of the display.

30 **SECTION 7.** (1)(a) A licensee shall notify the Director of the Department of Consumer  
31 and Business Services in writing at least 30 days before the licensee relocates or closes the  
32 licensee's principal place of business in this state.

33 (b) In a notice under paragraph (a) of this subsection the licensee shall list the new ad-  
34 dress to which the licensee relocates the licensee's principal place of business.

35 (2)(a) A licensee shall notify the director in writing not later than 30 days after:

36 (A) Any appointment, resignation or other change occurs in the licensee's directors,  
37 members, officers, managers, partners or controllers; or

38 (B) Any material change occurs in the information that the licensee submitted in an  
39 application under section 5 of this 2017 Act.

40 (b) The licensee shall provide in a notice under paragraph (a)(A) of this subsection the  
41 name, address and title of any new director, member, officer, manager, partner or controller  
42 the licensee appoints.

43 (3)(a) A licensee shall notify the director in writing not later than 10 days after:

44 (A) Filing for bankruptcy or reorganization;

45 (B) A director, member, officer, manager, partner, controller or registered agent of the

1 licensee becomes subject to an indictment that is related in any manner to the licensee's  
2 activities;

3 (C) The licensee receives notice of a final order issued in this or another state that:

4 (i) Demands that the licensee cease and desist from any act;

5 (ii) Suspends or revokes a license or registration; or

6 (iii) Constitutes any other formal or informal regulatory action against the licensee in  
7 this or another state in which the governing body found that the licensee or a director,  
8 member, officer, manager, partner or controller of the licensee violated an applicable law,  
9 regulation, rule or order;

10 (D) The licensee registers or changes and uses or operates under an assumed business  
11 name; or

12 (E) Another change in the licensee's operations or governance occurs in a manner or  
13 with an effect that the director determines by rule is significant enough to warrant the  
14 licensee notifying the director.

15 (b) A licensee shall specify in a notice under paragraph (a)(C) of this subsection the  
16 reasons for taking a regulatory action against the licensee that are set forth in any final  
17 order.

18 (4) A licensee shall notify the director immediately if the licensee changes registered  
19 agents or if the name or address for the licensee's registered agent in this state changes. In  
20 the notice, the licensee shall update the name and address for the registered agent.

21 **SECTION 8.** A licensee or a person that engages in debt buying shall comply with stan-  
22 dards that the Director of the Department of Consumer and Business Services adopts by  
23 rule. The standards, at a minimum, must require the licensee or the person to:

24 (1) Establish appropriate training programs that instruct employees or agents of the  
25 licensee or the person in fair debt collection practices and compliance with ORS 646.639,  
26 section 1 of this 2017 Act and applicable provisions of sections 3 to 13 of this 2017 Act.

27 (2) Establish and maintain adequate processes to receive and respond to complaints from  
28 debtors and other persons and resolve disputes.

29 (3) Store personal information, as defined in ORS 646A.602, securely and in compliance  
30 with the requirements of ORS 646A.600 to 646A.628 and promptly provide notice of all  
31 breaches of security as provided in ORS 646A.604.

32 (4) Ensure the accuracy, fairness and privacy of information the debt buyer or person  
33 possesses in accordance with the requirements of the Fair Credit Reporting Act, 15 U.S.C.  
34 1681 et seq., and Regulation V, 12 C.F.R. part 1022, both as in effect on the operative date  
35 specified in section 15 of this 2017 Act.

36 (5) Establish and maintain procedures for withdrawing or dismissing any legal action the  
37 debt buyer or person brings to collect a debt if ORS 12.080 or another applicable statute of  
38 limitations bars the legal action.

39 (6) Maintain adequate policies and procedures for producing and filing accurate and  
40 truthful affidavits.

41 (7) Maintain adequate policies and procedures for acquiring sufficient information about  
42 a debt or debtor to enable the debt buyer or person to establish a continuous chain of title  
43 for a debt from the original creditor to the current owner and to otherwise comply with ORS  
44 646.639 (4) and sections 1 and 3 to 13 of this 2017 Act.

45 **SECTION 9.** A licensee or a person that engages in debt buying may not:

1 (1) Perform any act, undertake any practice or employ any device, scheme or artifice in  
2 the course of the licensee's or the person's business that the Director of the Department of  
3 Consumer and Business Services defines by rule as dishonest, unethical or illegal or that  
4 would operate as a deceit or fraud upon any person.

5 (2) Allow an errors and omissions insurance policy required under section 5 (3) of this  
6 2017 Act to lapse or otherwise fail to maintain the insurance policy.

7 (3) Fail to comply with standards the director adopts under section 8 of this 2017 Act.

8 (4) Knowingly make, in an application to obtain or renew a license under section 5 of this  
9 2017 Act or otherwise, an untrue statement of a material fact or omit to state a material fact  
10 that is necessary in order to make a statement true or not misleading in light of the cir-  
11 cumstances under which the licensee or person makes the statement.

12 (5) Engage in debt buying if:

13 (a) A court has enjoined the licensee or person, temporarily or permanently, from en-  
14 gaging in debt buying or performing an act or undertaking a practice in the course of debt  
15 buying; or

16 (b) The licensee or person is subject to a United States Postal Service fraud order that  
17 was issued within the previous five years and that remains in effect.

18 (6) Violate any of the following laws or regulations as the laws or regulations apply to  
19 the licensee's or person's debt buying activities:

20 (a) The Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.;

21 (b) Federal regulations promulgated as 16 C.F.R. part 310 under 15 U.S.C. 6101 et seq.;

22 (c) Federal regulations promulgated as 16 C.F.R. part 681 under sections 114 and 315 of  
23 the Fair and Accurate Credit Transactions Act of 2003, P.L. 108-159; and

24 (d) ORS 646A.600 to 646A.628.

25 **SECTION 10.** (1) The Director of the Department of Consumer and Business Services has  
26 general supervisory authority and control over:

27 (a) Any person that engages in debt buying in this state; and

28 (b) Any person that had a license that the director withdrew, canceled, suspended, con-  
29 ditioned or revoked, if the person continues to engage in debt buying in this state.

30 (2)(a) The authority described in subsection (1) of this section includes the authority to  
31 examine a licensee or another person described in subsection (1) of this section at any time.

32 (b) The director may charge and collect from a licensee or a person the director exam-  
33 ines under this section the costs the director incurs in conducting the examination.

34 (3) Books, accounts, papers, records, files, correspondence, contracts and agreements,  
35 memoranda, disclosures, documents and other information, material or evidence the director  
36 obtains in an examination under this section that concerns a debtor's personal debt history  
37 or identifying information is confidential and subject to the provisions of ORS 705.137.

38 (4) The director may investigate, in this state or another state, or initiate an adminis-  
39 trative proceeding concerning the business activities of a licensee or person that engages in  
40 debt buying to determine whether the licensee or person has violated, is violating or is about  
41 to violate ORS 646.639 (4) or sections 1 and 3 to 13 of this 2017 Act or a rule the director  
42 adopted or an order the director issued under ORS 646.639 (4) or sections 1 and 3 to 13 of this  
43 2017 Act. In the course of the investigation, the director may:

44 (a) Require the licensee or person to submit a statement concerning the subject of the  
45 investigation to the director in writing, under oath or otherwise;

1 (b) Compel witnesses to attend an investigation or proceeding, take evidence and require  
2 the licensee or person to produce books, accounts, papers, records, files, correspondence,  
3 contracts and agreements, memoranda, documents and other information, material or evi-  
4 dence the director deems relevant or material to the investigation or proceeding; and

5 (c) Interview and preserve testimony from a licensee's or person's directors, members,  
6 officers, managers, partners, controllers, employees, agents and customers, and any inde-  
7 pendent contractors associated with the licensee or person, concerning the licensee's or  
8 person's business practices and operations.

9 (5)(a) If the director has reasonable cause to believe, or determines after an investigation  
10 under subsection (4) of this section or after receiving a complaint from a debtor or another  
11 person, that a licensee or person that engages in debt buying may have violated ORS 646.639,  
12 the director shall notify the Attorney General and may refer all of the information the di-  
13 rector gathered to the Department of Justice.

14 (b) If the Attorney General or the Department of Justice do not respond within 45 days  
15 after the date of a notice under paragraph (a) of this subsection or decline to undertake an  
16 enforcement action, the director may enforce the provisions of ORS 646.639.

17 (c) The Attorney General shall inform the director if the Department of Justice elects  
18 to enforce ORS 646.639.

19 (d) This subsection does not preclude:

20 (A) The Attorney General from representing the director in any action to enforce ORS  
21 646.639; or

22 (B) The Attorney General and the director from sharing information, coordinating efforts  
23 or otherwise cooperating or collaborating in actions to enforce ORS 646.639.

24 (6) The director may charge and collect from a licensee or a person the director investi-  
25 gates under this section reasonable costs the director incurs in conducting the investigation,  
26 initiating or conducting a proceeding or otherwise enforcing the provisions of ORS 646.639  
27 or sections 1 and 3 to 13 of this 2017 Act.

28 (7)(a) The director may consult and cooperate with a national nonprofit trade association  
29 that certifies debt buyers according to an industry-recognized standard for properly manag-  
30 ing purchased debt. The director may consult and cooperate with the trade association in  
31 areas of mutual interest including, but not limited to, determining industry standards and  
32 recognizing violations with which the trade association is familiar.

33 (b) In addition to consulting and cooperating with a trade association as provided in  
34 paragraph (a) of this subsection, the director may consult and cooperate with members of  
35 the public.

36 **SECTION 11.** (1) If after conducting an investigation, initiating or conducting a proceed-  
37 ing or taking an enforcement action under section 10 of this 2017 Act the Director of the  
38 Department of Consumer and Business Services determines that a licensee or a person that  
39 engages in debt buying in this state has violated ORS 646.639 or sections 1 and 3 to 13 of this  
40 2017 Act, a rule the director adopted or an order the director issued under ORS 646.639 or  
41 sections 1 and 3 to 13 of this 2017 Act or another applicable law, the director may:

42 (a) Order the licensee or the person to cease and desist from any act that constitutes the  
43 violation.

44 (b) Suspend, condition or revoke a licensee's license or deny an application to obtain or  
45 renew a license under section 5 of this 2017 Act.

1 (c) Impose a civil penalty of not more than \$5,000 for each violation after considering the  
2 severity of the violation, the intent of the licensee or person and any efforts the licensee or  
3 person made to remedy or mitigate the effects of the violation.

4 (d) Order the licensee or the person to disgorge and return all payments the licensee or  
5 person obtained from a debtor or another person in the course of or as a result of the vio-  
6 lation.

7 (2) The director shall undertake an action described in this section in accordance with  
8 ORS chapter 183 and shall impose any civil penalty in accordance with ORS 183.745.

9 (3) Each instance in which the director determines a violation has occurred is a separate  
10 violation, and each day in which a person engages in a continuous violation is a separate vi-  
11 olation. The director may not impose a penalty that exceeds \$20,000 for a continuous vio-  
12 lation.

13 (4) If the Department of Justice and the Department of Consumer and Business Services  
14 cooperate in an enforcement action under section 10 of this 2017 Act that results in a civil  
15 penalty, the Attorney General and the director shall agree as to which of the two depart-  
16 ments will impose the civil penalty.

17 (5) The director shall deposit any amount the director receives under this section to the  
18 Consumer and Business Services Fund as provided in ORS 705.145.

19 **SECTION 12.** (1) Except as provided in subsection (2) of this section, the provisions of  
20 sections 1 and 3 to 13 of this 2017 Act preempt all charter and statutory authority of local  
21 governments in this state to require a debt buyer or a person that engages in debt buying  
22 to obtain a license, registration or other authority to engage in debt buying or to charge a  
23 fee for a license, registration or other authority to engage in debt buying.

24 (2) Subsection (1) of this section does not affect the authority of a local government in  
25 this state to:

26 (a) Charge and collect from all businesses that operate within the local government's  
27 jurisdiction a general and nondiscriminatory fee for a license, registration or other authority  
28 to conduct business; or

29 (b) Levy a tax on the revenue, property or operations of the business within the local  
30 government's jurisdiction.

31 **SECTION 13.** The Director of the Department of Consumer and Business Services may  
32 adopt rules to implement the provisions of ORS 646.639 (4) and sections 1 and 3 to 13 of this  
33 2017 Act.

34 **SECTION 14.** (1) Except as provided in subsection (2) of this section, sections 1 and 3 to  
35 13 of this 2017 Act and the amendments to ORS 646.639 by section 2 of this 2017 Act apply  
36 to debts that are sold or resold before, on or after the operative date specified in section 15  
37 of this 2017 Act.

38 (2) The requirements to provide information and documents under section 1 of this 2017  
39 Act and ORS 646.639 (4)(b) and (d) apply to debts that are sold or resold on or after the op-  
40 erative date of this 2017 Act.

41 **SECTION 15.** (1) Sections 1 and 3 to 13 of this 2017 Act and the amendments to ORS  
42 646.639 by section 2 of this 2017 Act become operative on January 1, 2018.

43 (2) The Attorney General and the Director of the Department of Consumer and Business  
44 Services may adopt rules and take any other action before the operative date specified in  
45 subsection (1) of this section that is necessary to enable the Attorney General and the di-

1 rector to exercise, on and after the operative date specified in subsection (1) of this section,  
2 all of the duties, functions and powers conferred on the Attorney General and the director  
3 by sections 1 and 3 to 13 of this 2017 Act and the amendments to ORS 646.639 by section 2  
4 of this 2017 Act.

5 **SECTION 16.** Notwithstanding any other law limiting expenditures, the limitation on  
6 expenditures established by section 1 (5), chapter 372, Oregon Laws 2017 (Enrolled Senate  
7 Bill 5512), for the biennium beginning July 1, 2017, as the maximum limit for payment of ex-  
8 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding  
9 lottery funds and federal funds, collected or received by the Department of Consumer and  
10 Business Services for the Division of Financial Regulation, is increased by \$165,351 for the  
11 purpose of carrying out the provisions of sections 1 and 3 to 13 of this 2017 Act and the  
12 amendments to ORS 646.639 by section 2 of this 2017 Act.

13 **SECTION 17.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
14 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

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