

## SENATE AMENDMENTS TO SENATE BILL 722

By COMMITTEE ON JUDICIARY

April 14

1 In line 2 of the printed bill, before the period insert “; creating new provisions; amending ORS  
2 697.692; and prescribing an effective date”.

3 Delete lines 4 through 7 and insert:

4 “**SECTION 1.** ORS 697.692 is amended to read:

5 “697.692. (1) **Subject to subsection (4) of this section**, a debt management service provider  
6 may charge a consumer only the following fees:

7 “(a) An initial fee of not more than \$50.

8 “(b) A fee reasonably calculated to recover the costs that the debt management service provider  
9 incurs in providing an initial counseling session or education class. The debt management service  
10 provider may charge the fee described in this paragraph in advance, but the fee may not exceed \$50.

11 “(c) A monthly fee equivalent to 15 percent of the funds that the debt management service  
12 provider receives from a consumer for payment to the consumer’s creditors. The debt management  
13 service provider may charge the fee described in this paragraph only if the debt management service  
14 provider holds a consumer’s funds, directly or indirectly, on the consumer’s behalf. The fee described  
15 in this paragraph may not exceed \$65 per month.

16 “(d) A fee equivalent to 15 percent of the amount of debt a consumer owes to one or more  
17 creditors at the time the consumer signs the agreement described in ORS 697.652 and places funds  
18 in a bank account that the consumer establishes or maintains in the consumer’s own name with an  
19 insured institution, as defined in ORS 706.008, and designates specifically for making disbursements  
20 in connection with a debt management service. The debt management service provider may charge  
21 the fee described in this paragraph only if the debt management service provider does not hold a  
22 consumer’s funds directly or indirectly. The debt management service provider may not charge the  
23 fee described in this paragraph in amounts or installments that exceed \$65 per month.

24 “(e) A fee equivalent to 7.5 percent of the difference between the principal amount of the debt  
25 the consumer owed to the consumer’s creditor at the time the consumer signed the agreement de-  
26 scribed in ORS 697.652 and the amount the consumer paid to the creditor to settle the debt, exclu-  
27 sive of fees the consumer paid to the debt management service provider under paragraph (a), (b) or  
28 (d) of this subsection. The debt management service provider may charge the fee described in this  
29 paragraph only if the debt management service provider obtains from the consumer’s creditor a re-  
30 duction in the principal amount of the consumer’s debt.

31 “(f) **A fee of not more than \$100 for a service in which the debt management service**  
32 **provider improves or preserves, or offers to improve or preserve, a consumer’s credit record,**  
33 **credit history or credit rating but does not conduct a budget analysis for the consumer, act**  
34 **as a broker for another debt management service provider or otherwise engage in any other**  
35 **activity that constitutes a debt management service. The debt management service provider**

1 may charge more than \$100 but not more than \$120 for the service if the Director of the  
2 Department of Consumer and Business Services finds that the nature and extent of the ed-  
3 ucational or counseling services the debt management service provider offers warrant a  
4 larger fee.

5 “(2) A debt management service provider may accept payment for a fee described in subsection  
6 (1) of this section by means of:

7 “(a) A check, draft or similar paper instrument; or

8 “(b) A transfer of funds through an electronic terminal, telephonic instrument, computer or  
9 magnetic tape that transmits an order, instruction or authorization to a financial institution to debit  
10 or credit an account.

11 “(3)(a) A consumer may void a contract for debt management services, and a debt man-  
12 agement service provider shall return to the consumer all sums the consumer paid to the  
13 debt management service provider and reimburse the consumer for reasonable attorney fees  
14 the consumer incurred in any action to enforce rights the consumer has under this sub-  
15 section, if the debt management service provider charges the consumer more than the  
16 amounts set forth in this section.

17 “(b) A consumer may not waive any of the rights the consumer has under this sub-  
18 section, and any provision in any contract or other agreement that purports to waive the  
19 consumer’s rights is void.

20 “(4) The director by rule may adjust the fees set forth in this section to reflect changes  
21 in the U.S. City Average Consumer Price Index for All Urban Consumers (All Items) as  
22 published by the Bureau of Labor Statistics of the United States Department of Labor. In  
23 adjusting fees, the director may consider whether changes in fees that other states charge  
24 for similar services warrant a change in fees in this state.

25 “SECTION 2. The amendments to ORS 697.692 by section 1 of this 2017 Act apply to debt  
26 management services for which a consumer enters into a contract or other agreement on  
27 or after the operative date specified in section 3 of this 2017 Act.

28 “SECTION 3. (1) The amendments to ORS 697.692 by section 1 of this 2017 Act become  
29 operative on January 1, 2018.

30 “(2) The Director of the Department of Consumer and Business Services may adopt rules  
31 and take any other action before the operative date specified in subsection (1) of this section  
32 that is necessary to enable the director, on and after the operative date specified in sub-  
33 section (1) of this section, to exercise all of the duties, functions and powers conferred on  
34 the director by the amendments to ORS 697.692 by section 1 of this 2017 Act.

35 “SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017  
36 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.”.

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