

SB 1553 A STAFF MEASURE SUMMARY

Carrier: Sen. Boquist

Senate Committee On Finance and Revenue

Action Date: 03/02/18
Action: Do pass with amendments. (Printed A-Eng.)
Vote: 4-0-1-0
Yeas: 4 - Boquist, Hass, Riley, Taylor
Exc: 1 - Baertschiger Jr
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Mazen Malik, Senior Economist

WHAT THE MEASURE DOES:

Clarifies who is subject to the requirements to file when it comes to collection or attempting to collect a debt by debt buyer.

ISSUES DISCUSSED:

- the different entities collecting debt.
- work done in the 2017 session that left a slight ambiguity.

EFFECT OF AMENDMENT:

Replaces the bill with new language on collections specifying debt buyers in a new subsection "t" for ORS 646.639.

BACKGROUND:

The new subsection "(t) added in this measure specifies that; "Collects or attempts to collect a debt if the debt collector is a debt buyer, or is acting on a debt buyer's behalf, and collects or attempts to collect purchased debt before providing to a debtor, within 30 days after the date of the debtor's request, all of the documents listed in subsection (4)(b) of this section."

the specified (4)(b) allows for the following:

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

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

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

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

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

"(E) A detailed and itemized statement of:

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

" (ii) The amount and date of the debtor's last payment on the debt before the debtor defaulted or before the debt became charged-off debt;

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

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

This Summary has not been adopted or officially endorsed by action of the committee.

SB 1553 A STAFF MEASURE SUMMARY

- “ (v) The amount and rate of interest, any fees and any charges that the debt buyer or any previous owner of the debt imposed, if the debt buyer or debt collector knows the amount, rate, fee or charge;
- “ (vi) The attorney fees the debt buyer or debt collector seeks, if the debt buyer or debt collector expects to recover attorney fees; and
- “ (vii) Any other fee, cost or charge the debt buyer seeks to recover;
- “ (F) Evidence that the debt buyer and only the debt buyer owns the debt;
- “ (G) The date on which the debt buyer purchased the debt; and
- “ (H) A copy of the agreement between the original creditor and the debtor that is either:
- “ (i) The contract or other writing the debtor signed that created and is evidence of the original debt; or
- “ (ii) A copy of the most recent monthly statement that shows a purchase transaction or balance transfer or the debtor’s last payment, if the debtor made a payment, if the debt is a credit card debt or other debt for which a contract or other writing that is evidence of the debt does not exist;

The sections referenced ORS 40.460 (6), and/or ORS 24.115

40.460 Rule 803. Hearsay exceptions; availability of declarant immaterial. The following are not excluded by ORS 40.455, even though the declarant is available as a witness:

(6) A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method of circumstances of preparation indicate lack of trustworthiness. The term “business” as used in this subsection includes business, institution association, profession, occupation, and calling of every kind, whether or not conducted for profit.

or ORS 24.115, ORS 24.115 Filing of foreign judgment; effect.

(1) A copy of any foreign judgment authenticated in accordance with the Act of Congress or the statutes of this state may be filed in the office of the clerk of any circuit court of any county of this state. Except as otherwise provided by law, the person filing the copy of the foreign judgment must pay the filing fee established under ORS 21.135. The clerk shall treat the foreign judgment in the same manner as a judgment of the circuit court.

(2) A certified copy of any foreign judgment authenticated in accordance with the Act of Congress or the statutes of this state shall be recorded in the County Clerk Lien Record of any county other than the county in which the judgment is originally filed, in order to become a lien upon the real property of the judgment debtor in that county as provided in ORS 18.152.

(3) A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a judgment of the circuit court in which the foreign judgment is filed, and may be enforced or satisfied in like manner.

(4) A foreign judgment of a tribal court of a federally recognized Indian tribe that is filed in a circuit court under this section, and that otherwise complies with 26 U.S.C. 414(p) as a domestic relations order as defined in 26 U.S.C. 414(p), is a domestic relations order made pursuant to the domestic relations laws of this state for the purposes of 26 U.S.C. 414(p). [1979 c.577 §2; 1985 c.343 §5; 1987 c.586 §14; 1995 c.273 §13; 2003 c.576 §180; 2007 c.663 §1; 2011 c.595 §32]