

A-Engrossed
House Bill 2252

Ordered by the House May 15
Including House Amendments dated May 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Efficiency)

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.

Requires person that engages in business as debt buyer in this state to obtain registration from Department of Consumer and Business Services. Specifies requirements for application for registration. Provides that Director of Department of Consumer and Business Services may by rule require debt buyer, in addition to obtaining registration, to obtain certification from national nonprofit trade association that director identifies as maintaining industry-recognized standards for managing purchased debt. Specifies conditions under which director may accept national nonprofit trade association's standards.

[Establishes requirements under which debt buyer may bring legal action to collect debt.] Specifies notice that debt buyer must give to debtor. **Prohibits debt buyer from taking certain actions in collecting or attempting to collect debt.** Makes violation unlawful collection practice and subject to Unlawful Trade Practices Act. **Provides that defendant in action for unlawful debt collection practice is not liable if defendant shows by preponderance of evidence that defendant did not intend violation, violation was not material and defendant's actions resulted from bona fide scrivener's error.**

[Increases amount of damages that may be awarded in action for unlawful collection practice. Permits court to award attorney fees and costs to prevailing plaintiff. Permits award to prevailing defendant only if court finds that plaintiff did not have objectively reasonable basis for bringing action.]

[Increases time period during which debtor may bring action for unlawful collection practice.]

Adds prohibitions of certain actions that debt collector may not take while collecting or attempting to collect debt.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to debt collection practices; creating new provisions; amending ORS 646.607, 646.639,
3 646.641 and 697.005; and declaring an emergency.

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

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

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

8 (b) **"Consumer transaction" means a transaction between a consumer and a person that**
9 **sells, leases or provides property, services or credit to consumers.**

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

13 (d) **"Creditor" means a person who in the ordinary course of business engages in con-**
14 **sumer transactions.**

15 (e) **"Debt" means an obligation or alleged obligation that arises out of a consumer**
16 **transaction.**

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 (f)(A) "Debt buyer" means a person that engages in the business of purchasing delinquent
2 or charged-off debt for the purpose of collecting the debt, whether the person collects the
3 debt, employs or contracts with another person to collect the debt or retains an attorney to
4 bring an action to collect the debt.

5 (B) "Debt buyer" does not include a mortgage banker, as defined in ORS 86A.100, a
6 licensee, as defined in ORS 725.010, or a financial institution, as defined in ORS 706.008.

7 (g) "Debt collector" means a person that by direct or indirect action, conduct or practice
8 collects or attempts to collect a debt owed, or alleged to be owed, to a creditor.

9 (h) "Debtor" means a consumer who owes or allegedly owes a debt.

10 (i) "Person" means a natural person, a corporation, a trust, a partnership, an incorpo-
11 rated or unincorporated association and any other legal entity except a body or officer that
12 acts under the statutory authority of this state or the United States.

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

22 (A) The applicant's name, address, telephone number and other contact information;

23 (B) The name, address, telephone number and other contact information for the
24 applicant's registered agent in this state or a statement that identifies the director as the
25 applicant's registered agent for the purpose of receiving service of process if the applicant
26 does not have a registered agent; and

27 (C) The names, addresses, telephone numbers and other contact information for the
28 applicant's directors, officers, partners or members, if the applicant is a corporation, limited
29 liability company, partnership, limited partnership or other business entity.

30 (b) Unless the director finds in writing that the applicant has exhibited a repeated pat-
31 tern of violating this section or ORS 646.639 within the five years before the date of the ap-
32 plication, the director shall issue a certificate of registration. If the director finds a repeated
33 pattern of violations, the director may deny a certificate of registration under this sub-
34 section. The director may suspend, revoke or impose conditions on a certificate of registra-
35 tion under this subsection if the director finds that a registrant has exhibited a repeated
36 pattern of violating this section or ORS 646.639 or rules the director adopts under this sec-
37 tion or ORS 646.639.

38 (c) In addition to requiring a debt buyer to obtain a certificate of registration under
39 paragraph (a) of this subsection, the director by rule may require a debt buyer that operates
40 in this state to obtain a certification from a national nonprofit trade association that the
41 director identifies as maintaining industry-recognized standards for properly managing pur-
42 chased debt, if the director by rule also accepts the body of standards that the national
43 nonprofit trade association uses to certify debt buyers as standards for governing the oper-
44 ations of debt buyers in this state. In determining whether to accept the nonprofit trade
45 association's body of standards, the director shall evaluate the body of standards that is in

1 effect on the operative date specified in section 8 of this 2015 Act. The director by rule may
2 accept changes that occur in the nonprofit trade association's standards after the operative
3 date specified in section 8 of this 2015 Act if the new standards are more stringent in gov-
4 erning the operations of debt buyers in this state than were the previous standards.

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

9 (A) A notice that states:

10 (i) The amount of the debt;

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

12 (iii) The charge-off amount, if the debt is an open-end credit account;

13 (iv) The name and address of the person to whom the debtor owes the debt as of the date
14 of the notice;

15 (v) The name and address of the original creditor in a form that reasonably enables the
16 debtor to identify the original creditor; and

17 (vi) That the debt buyer, assignee or debt collector will:

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

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

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

27 _____

28
29 The law limits the amount of time during which you can be sued to collect a debt. Be-
30 cause of the age of your debt, _____ (name of the owner of the debt) will
31 not sue you to collect this debt, but if you do not pay the debt _____
32 (name of the owner of the debt) may report or continue to report the debt to a credit re-
33 porting agency as an unpaid debt.

34 _____

35
36 (C) A notice that reads substantially as follows, if a consumer reporting agency may not
37 include information about the debt in a consumer report under 15 U.S.C. 1681c, as in effect
38 on the operative date specified in section 8 of this 2015 Act:

39 _____

40
41 The law limits the amount of time during which you can be sued to collect a debt. Be-
42 cause of the age of your debt, _____ (name of the owner of the debt) will
43 not sue you to collect this debt and may not report or continue to report the debt to a credit
44 reporting agency.

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

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

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

(4) A debt buyer, an assignee of a debt buyer or a debt collector that acts as the debt buyer's agent, while collecting or attempting to collect a debt, may not:

(a) Continue to collect or attempt to collect a debt or a disputed portion of a debt from a debtor who disputed the validity of all or a portion of the debt or the amount of the debt within 30 days after receiving a notice under subsection (3) of this section, if the debt buyer, assignee or debt collector has not mailed to the debtor a written verification of the debt or a copy of a judgment against the debtor, except that a debt buyer, assignee or debt collector may continue to communicate with a debtor or to collect or attempt to collect a debt within the 30-day period:

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

(B) If the debt buyer's, assignee's or debt collector's communication, collection or attempt to collect the debt does not interfere with the debtor's ability to learn about the debtor's rights under this section or the debtor's right to dispute the validity of all or a portion of the debt or the amount of the debt; and

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

(b) Sell, assign or otherwise transfer a debt to another person if the debtor disputed the validity of all or a portion of the debt or the amount of the debt within 30 days after receiving a notice under subsection (3) of this section and if the debt buyer, assignee or debt collector has not mailed to the debtor a written verification of the debt or a copy of a judgment against the debtor.

(c) Collect or attempt to collect a debt from an open-end credit account that was charged off on or after the operative date specified in section 8 of this 2015 Act if the debtor has requested in writing and the debt buyer, assignee or debt collector has not provided:

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

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

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

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

1 each owner owned the debt.

2 (5) A debtor's failure to dispute the validity of all or a portion of a debt or the amount
3 of a debt under this section is not an admission of the debtor's liability for the debt.

4 (6) To the extent that this section requires or permits a debt buyer to take an action or
5 permits a debtor to communicate with a debt buyer, an assignee of a debt buyer or a debt
6 collector that acts as the debt buyer's agent may take the action or receive the communi-
7 cation from the debtor.

8 (7) Violation of this section by a debt buyer, an assignee of a debt buyer or a debt col-
9 lector that acts as a debt buyer's agent is an unlawful practice under ORS 646.607 that is
10 subject to an investigative demand under ORS 646.618 and enforcement under ORS 646.632
11 and is an unlawful collection practice under ORS 646.639 that is subject to an action under
12 ORS 646.641.

13 **SECTION 2.** ORS 646.607 is amended to read:

14 646.607. A person engages in an unlawful practice if in the course of the person's business, vo-
15 cation or occupation the person:

16 (1) Employs any unconscionable tactic in connection with selling, renting or disposing of real
17 estate, goods or services, or collecting or enforcing an obligation;

18 (2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a
19 customer's request, fails to refund money that the customer gave to the person to purchase the
20 undelivered real estate, goods or services and that the person does not retain pursuant to any right,
21 claim or defense the person may assert in good faith. This subsection does not create a warranty
22 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered
23 to a customer;

24 (3) Violates ORS 401.965 (2);

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

26 (5) Violates ORS 646A.530;

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

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

29 (8) Violates ORS 646A.093.

30 (9) Violates section 1 of this 2015 Act.

31 **SECTION 3.** ORS 646.639 is amended to read:

32 646.639. (1) As used in [subsection (2) of] this section:

33 (a) "**Commercial creditor**" means a person who in the ordinary course of business en-
34 gages in consumer transactions.

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

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

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

41 (d) "Credit" means [the right granted by] a right that a creditor grants to a consumer to defer
42 payment of a debt, to incur a debt and defer [its] payment of the debt, or to purchase or acquire
43 property or services and defer payment [therefor] for the property or services.

44 (e) "Debt" means [any] an obligation or alleged obligation [arising] that arises out of a con-
45 sumer transaction.

1 [(f) “Debtor” means a consumer who owes or allegedly owes an obligation arising out of a con-
2 sumer transaction.]

3 [(g) (f) “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 commercial creditor.**

8 **(g) “Debtor” means a consumer who owes or allegedly owes a debt.**

9 (h) “Person” means an individual, corporation, trust, partnership, incorporated or
10 unincorporated association or any other legal entity.

11 [(2) *It shall be an unlawful collection practice for a debt collector, while collecting or attempting
12 to collect a debt to do any of the following:*]

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

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

16 (b) Threaten arrest or criminal prosecution.

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

21 (d) Use profane, obscene or abusive language in communicating with a debtor or **any member
22 of** the debtor’s family.

23 (e) Communicate with [the] **a** debtor or any member of the debtor’s family repeatedly or contin-
24 uously or at times known to be inconvenient to [that person] **the debtor or any member of the
25 debtor’s family and** with intent to harass or annoy the debtor or any member of the debtor’s family.

26 (f) Communicate or threaten to communicate with a debtor’s employer concerning the nature
27 or existence of the debt.

28 (g) [Communicate without the debtor’s permission or threaten to communicate with the] **Communi-
29 cate or threaten to communicate with a** debtor at the debtor’s place of employment **without
30 the debtor’s permission** if the place of **employment** is other than the debtor’s residence, except
31 that the debt collector may:

32 (A) Write to [the] **a** debtor at the debtor’s place of employment if [no] **a** home address is **not**
33 reasonably available and if the envelope does not reveal that the communication is from a debt
34 collector other than [a provider of] **the person that provided** the goods, services or credit from
35 which the debt arose.

36 (B) Telephone a debtor’s place of employment without informing any other person of the nature
37 of the call or identifying the caller as a debt collector but only if the debt collector in good faith
38 has made an unsuccessful attempt to telephone the debtor at the debtor’s residence during the day
39 or during the evening between the hours of 6 p.m. and 9 p.m. The debt collector may not contact
40 the debtor at the debtor’s place of employment more frequently than once each business week and
41 may not telephone the debtor at the debtor’s place of employment if the debtor notifies the debt
42 collector not to telephone at the debtor’s place of employment or if the debt collector knows or has
43 reason to know that the debtor’s employer prohibits the debtor from receiving such communication.
44 For the purposes of this subparagraph, any language in any **agreement, contract or** instrument
45 [creating] **that creates or is evidence of** the debt [which] **and that** purports to authorize telephone

1 calls at the debtor's place of employment [*shall not be considered as giving*] **does not give** permis-
 2 sion to the debt collector to call the debtor at the debtor's place of employment.

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

9 (i) Communicate **directly** with [*the*] **a debtor** [*orally*] **in an oral conversation** without disclosing
 10 to the debtor, within 30 seconds **after beginning the communication**, the name of the individual
 11 [*making the contact*] **who is initiating the communication** and the true purpose [*thereof*] **of the**
 12 **communication.**

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

17 (k) Attempt to or threaten to enforce a right or remedy [*with knowledge or*] **that the debt**
 18 **collector knows or has** reason to know [*that the right or remedy*] does not exist, or threaten to take
 19 any action [*which*] **that** the debt collector **does not take** in the regular course of business [*does not*
 20 *take*].

21 (L) Use [*any*] **a form of communication** [*which*] **that** simulates legal or judicial process or [*which*
 22 *gives the appearance of being*] **that appears to be** authorized, issued or approved by a governmental
 23 agency, governmental official or an [*attorney at law when it is not in fact so approved or*
 24 *authorized*] **attorney-at-law if a governmental agency, governmental official or attorney-at-law**
 25 **has not in fact authorized or approved the communication.**

26 (m) Represent that an existing debt may be increased by the addition of attorney fees, investi-
 27 gation fees or any other fees or charges [*when such*] **if the** fees or charges may not legally be added
 28 to the existing debt.

29 (n) Collect or attempt to collect [*any*] interest or [*any other*] charges or fees [*in excess of*] **that**
 30 **exceed** the actual debt, unless [*they are expressly authorized by the agreement creating the debt or*
 31 *expressly allowed by law*] **the agreement, contract or instrument that creates the debt ex-**
 32 **pressly authorizes, or a law expressly allows, the interest or other charges or fees.**

33 (o) Threaten to assign or sell [*the*] **a debtor's account** [*with an attending misrepresentation or*
 34 *implication*] **and misrepresenting or implying** that the debtor would lose any defense to the debt
 35 or would be subjected to harsh, vindictive or abusive collection tactics.

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

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

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

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

45 (3) [*It shall be an unlawful collection practice for*] A debt collector, by use of any direct or indi-

1 rect action, conduct or practice, [to] **may not** enforce or attempt to enforce an obligation [made]
2 **that is** void and unenforceable [by the provisions of] **under** ORS 759.720 (3) to (5).

3 **(4) A debt collector’s violation of subsection (2) or (3) of this section is an unlawful debt**
4 **collection practice that is subject to an action 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 circuit court of a**
7 **county:**

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

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

11 **(c) In which a plaintiff in an action under this section alleges that one or more of the**
12 **defendants in the action used or employed an unlawful collection practice.**

13 [(1)] (2) [Any] **A person that is** injured as a result of **another person’s** willful use or employ-
14 ment [by another person] of an unlawful collection practice may bring an action in an appropriate
15 court to enjoin the practice or to recover actual damages or \$200, whichever is greater. The court
16 or the jury may award punitive damages, and the court may provide such equitable relief as [it] **the**
17 **court** deems necessary or proper.

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

20 [(3) Actions brought under this section shall be commenced within one year from the date of the
21 injury.]

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

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

26 **(5) A defendant in an action under this section is not liable if the defendant shows by a**
27 **preponderance of the evidence that the defendant did not intend to engage in an unlawful**
28 **debt collection practice, the violation was not material and that the defendant’s actions re-**
29 **sulted from bona fide scrivener’s error despite the defendant’s maintenance of procedures**
30 **reasonably adapted to avoid the error.**

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

32 697.005. As used in ORS 697.005 to 697.095:

33 (1)(a) “Collection agency” means:

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

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

42 (C) A person that, in attempting to collect or in collecting the person’s own claim, uses a ficti-
43 tious name or any name other than the person’s own **name** that **conveys an impression**
44 [indicates] to the debtor that a third person is collecting or attempting to collect the claim;

45 (D) A person [in the business of engaging] **that engages** in the [solicitation of] **business of so-**

1 **liciting** the right to repossess or in repossessing collateral security due or asserted to be due to
2 another person; or

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

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

6 (ii) Engages in any action or conduct that tends to convey the impression that a third party has
7 been employed or engaged to collect the claim.

8 (b) “Collection agency” does not include:

9 (A) An individual *[engaged]* **who engages** in soliciting claims for collection, or *[collecting or at-*
10 *tempting]* **who collects or attempts** to collect claims on behalf of a registrant under ORS 697.005
11 to 697.095, if the individual is an employee of the registrant.

12 (B) An individual *[collecting or attempting]* **who collects or attempts** to collect claims for not
13 more than three employers, if the individual carries on all collection efforts in the name of the em-
14 ployer and the individual is an employee of the employer.

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

18 (D) An attorney-at-law *[rendering]* **who renders** services in *[the performance of]* **performing** the
19 duties of an attorney-at-law.

20 (E) A licensed certified public accountant or public accountant *[rendering services in the per-*
21 *formance of]* **performing** the duties of a licensed certified public accountant or public accountant.

22 (F) A bank, mutual savings bank, consumer finance company, trust company, savings and loan
23 association, credit union or debt consolidation agency.

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

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

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

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

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

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

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

35 (L) A person that *[is providing]* **provides** billing services. A person *[is providing]* **provides** bill-
36 ing services for the purposes of this subparagraph if the person engages, directly or indirectly, in
37 the business or pursuit of *[collection of]* **collecting** claims for another person, whether in the other
38 person’s name or any other name, by any means that:

39 (i) *[Is]* **Uses** an accounting procedure, preparation of mail billing or any other means intended
40 to accelerate cash flow to the other person’s bank account or to any separate trust account; and

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

43 (M) A person that *[is providing]* **provides** factoring services. A person *[is providing]* **provides**
44 factoring services for the purposes of this subparagraph if the person engages, directly or indirectly,
45 in the business or pursuit of:

1 (i) Lending or advancing money to commercial clients on the security of merchandise or ac-
2 counts receivable and then enforcing collection actions or procedures *[on such accounts]* **for the**
3 **loans or advances;** or

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

6 (I) Allows recourse against the commercial client;

7 (II) Requires the commercial client to provide any form of guarantee of payment of the pur-
8 chased account; or

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

10 (N) An individual employed by *[another]* a person that operates as a collection agency *[if the*
11 *person does not operate as a collection agency independent of that employment]*, **unless the individual**
12 **operates an independent collection agency while employed by the person that operates as a**
13 **collection agency.**

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

15 (P) A public utility, as defined in ORS 757.005, a telecommunications utility, as defined in ORS
16 759.005, a people's utility district, as defined in ORS 261.010, *[and]* **or** a cooperative corporation
17 engaged in furnishing electric or communication service to consumers.

18 (Q) A public body or an individual *[collecting or attempting]* **that collects or attempts** to collect
19 claims owed, due or asserted to be owed or due to a public body, if the individual is an employee
20 of the public body.

21 (R) A person that receives an assignment of debt in any form without an obligation to pay the
22 assignor any of the proceeds resulting from a collection of all or a portion of the debt.

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

25 *[(S)]* **(T)** A person for whom the Director of the Department of Consumer and Business Services
26 determines by order or by rule that *[the protection of]* **protecting** the public health, safety and wel-
27 fare does not require registration with the Department **of Consumer and Business Services** as a
28 collection agency.

29 (2) "Collection system" means a scheme intended or calculated to be used to collect claims sent,
30 prepared or delivered by:

31 (a) A person *[who]* **that** in collecting or attempting to collect the person's own claim uses a
32 fictitious name or any name other than the person's own that indicates to the debtor that a third
33 person is collecting or attempting to collect the claim; or

34 (b) A person **that is** directly or indirectly engaged in soliciting claims for collection, or col-
35 lecting or attempting to collect claims owed or due or asserted to be owed or due another person.

36 (3) "Claim" means an obligation *[for the payment of]* **to pay** money or *[thing of value arising]*
37 **value if the obligation arises** out of an agreement or contract, express or implied.

38 (4) "Client" or "customer" means a person *[authorizing or employing]* **that authorizes or em-**
39 **loys** a collection agency to collect a claim.

40 (5) "Debtor" means a person *[owing]* **that owes, or is** alleged to owe, a claim.

41 *[(6) "Debts incurred outside this state" means an action or proceeding that:]*

42 *[(a) Arises out of a promise, made anywhere to the plaintiff or a third party for the plaintiff's*
43 *benefit, by the defendant to perform services outside of this state or to pay for services to be performed*
44 *outside of this state by the plaintiff;]*

45 *[(b) Arises out of services actually performed for the plaintiff by the defendant outside of this state*

1 *or services actually performed for the defendant by the plaintiff outside of this state, if the performance*
2 *outside of this state was authorized or ratified by the defendant;]*

3 [(c) *Arises out of a promise, made anywhere to the plaintiff or a third party for the plaintiff's*
4 *benefit, by the defendant to deliver or receive outside of this state or to send from outside of this state*
5 *goods, documents of title or other things of value;]*

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

8 [(e) *Relates to goods, documents of title or other things of value actually received outside of this*
9 *state by the plaintiff from the defendant or by the defendant from the plaintiff, without regard to where*
10 *delivery to carrier occurred; or]*

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

12 [(7)] **(6)(a)** “Out-of-state collection agency” means a collection agency located outside of this
13 state [*whose*] **the activities of which**, within this state, are limited to collecting [*debts incurred*
14 *outside of this state from debtors*] **a debt that a debtor** located in this state **incurs outside this**
15 **state.**

16 **(b)** As used in this subsection, “collecting [*debts*] **a debt**” means collecting **a debt on behalf**
17 **of clients located outside this state** by means of interstate communications, including telephone,
18 mail or facsimile transmission, from the collection [*agency*] **agency's** location in another state [*on*
19 *behalf of clients located outside of this state*].

20 [(8)] **(7)** “Person” means an individual, firm, partnership, trust, joint venture, association, limited
21 liability company or corporation.

22 [(9)] **(8)** “Public body” **has the meaning given that term in ORS 174.109.** [*means:*]

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

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

26 [(c) *An intergovernmental agency, department, council, joint board of control created under ORS*
27 *190.125 or other like entity that is created under ORS 190.003 to 190.130 and that does not act under*
28 *the direction and control of any single member government.]*

29 [(10)] **(9)** [*“Registered” or*] “Registrant” means a person **that is** registered under ORS 697.005 to
30 697.095 or **that is** registered or licensed as a collection agency under the laws of another state.

31 [(11)] **(10)** “Statement of account” means a report [*setting*] **that sets** forth amounts billed, in-
32 voices, credits allowed or aged balance due.

33 **SECTION 6.** Notwithstanding any other provision of law, ORS 646.639, 646.641 and 646.643
34 **shall not be considered to have been added to or made a part of ORS 646.605 to 646.652 for**
35 **the purpose of statutory compilation or for the application of definitions, penalties or ad-**
36 **ministrative provisions applicable to statute sections in that series.**

37 **SECTION 7.** Section 1 of this 2015 Act and the amendments to ORS 646.607, 646.639,
38 646.641 and 697.005 by sections 2 to 5 of this 2015 Act apply to legal actions that begin on or
39 **after the operative date specified in section 8 of this 2015 Act.**

40 **SECTION 8.** (1) Section 1 of this 2015 Act and the amendments to ORS 646.607, 646.639,
41 646.641 and 697.005 by sections 2 to 5 of this 2015 Act become operative January 1, 2016.

42 (2) The Director of the Department of Consumer and Business Services may adopt rules
43 **and take any other action before the operative date specified in subsection (1) of this section**
44 **that is necessary to enable the director, on and after the operative date specified in sub-**
45 **section (1) of this section, to exercise all of the duties, functions and powers conferred on**

1 the director by section 1 of this 2015 Act and the amendments to ORS 646.607, 646.639, 646.641
2 and 697.005 by sections 2 to 5 of this 2015 Act.

3 **SECTION 9.** This 2015 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
5 on its passage.
6
