

House Bill 3096

Sponsored by Representative KENY-GUYER (at the request of David Roth)

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 **as introduced**.

Requires financial institution to report to Department of Consumer and Business Services customer complaint concerning improper charges to customer's credit card or debit card or improper withdrawals from customer's deposit account that alleges that improper charges or withdrawals came after inadequate disclosure or failure to disclose that initial purchase obligated customer to make additional purchases or payments unless customer acts affirmatively to cancel obligation.

Provides that financial institution need not verify truth of statements in customer's complaint before, or in course of, reporting complaint.

Requires financial institution to advise customer that customer can complain directly to department and to assist customer in collecting sufficient information for complaint.

Punishes failure to report complaint as unlawful trade practice.

Becomes operative January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to customer complaints to financial institutions; creating new provisions; amending ORS
3 646.607; and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Bank Act.**

6 **SECTION 2. (1) As used in this section, "customer" means an individual resident of this**
7 **state who:**

8 **(a) Has a credit card from, or another revolving credit arrangement with, a financial in-**
9 **stitution that does business in this state by means of which the individual may pay another**
10 **person; or**

11 **(b) Has moneys on deposit with a financial institution that does business in this state**
12 **from which moneys, by agreement with the financial institution, the individual may draw to**
13 **pay another person by means of a debit card, electronic funds transfer or similar or related**
14 **means.**

15 **(2) A financial institution:**

16 **(a)(A) Shall report to the Department of Consumer and Business Services each com-**
17 **plaint, written or oral, that the financial institution receives from a customer of the financial**
18 **institution in which the customer alleges that another person has improperly charged the**
19 **customer's credit card or debit card or has improperly withdrawn funds from the customer's**
20 **deposit account by electronic funds transfer after inadequately disclosing or failing to dis-**
21 **close to the customer that an initial purchase from the person obligated the customer to**
22 **make additional purchases or payments unless and until the customer acted affirmatively to**
23 **cancel the obligation.**

24 **(B) Need not verify the truth of any of the statements in a customer's complaint before,**
25 **or in the course of, reporting the customer's complaint to the department under subpara-**

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 **graph (A) of this paragraph.**

2 **(C) Shall make a report under subparagraph (A) of this paragraph on a form, in a format**
 3 **and with the contents that the department specifies by rule. The department shall require**
 4 **the complaint to provide sufficient information to enable the department to investigate the**
 5 **complaint and must include, at a minimum:**

6 **(i) The name of the person that the customer alleges made the improper charge or**
 7 **withdrawal and the person’s address or other contact information, if available;**

8 **(ii) The name, address and contact information of the financial institution; and**

9 **(iii) A short summary of how the financial institution responded to the complaint other**
 10 **than by reporting the complaint under this subsection.**

11 **(b) Shall advise a customer of the financial institution that the customer may complain**
 12 **directly to the department and shall provide the customer with a website address for making**
 13 **a complaint electronically or a preaddressed paper form that the customer may mail to the**
 14 **department.**

15 **(c) Shall assist the customer in collecting information sufficient to file a complaint and**
 16 **in filling out a complaint form.**

17 **(3)(a) The department shall treat a report of a complaint under this section as equivalent**
 18 **to a complaint from a customer that alleges a fraud and shall investigate the complaint as**
 19 **the department deems appropriate.**

20 **(b) The department may cooperate with the Attorney General in investigating a report**
 21 **of a complaint under this section or, with the Attorney General’s consent, may transfer a**
 22 **report of a complaint to the Attorney General for investigation.**

23 **(4) A financial institution’s failure to report a complaint as provided in subsection (2) of**
 24 **this section is an unlawful trade practice under ORS 646.607 that, at the request of the de-**
 25 **partment under ORS 646.633, is subject to an investigative demand under ORS 646.618 and**
 26 **enforcement under ORS 646.632.**

27 **(5) The department shall report to the Legislative Assembly and the Governor, not later**
 28 **than December 31 of each year, concerning:**

29 **(a) The number of complaints that financial institutions reported under this section;**

30 **(b) The names of the financial institutions that received the most complaints;**

31 **(c) The names of the persons about which the department has received significant num-**
 32 **bers of complaints;**

33 **(d) The percentage of complaints received that the financial institutions resolved to the**
 34 **customers’ satisfaction;**

35 **(e) The number and percentage of complaints that the department investigated; and**

36 **(f) The status of any complaints that have not been resolved as of the date of the report.**

37 **SECTION 3. ORS 646.607 is amended to read:**

38 **646.607. A person engages in an unlawful trade practice if in the course of the person’s business,**
 39 **vocation or occupation the person:**

40 **(1) Employs any unconscionable tactic in connection with selling, renting or disposing of real**
 41 **estate, goods or services, or collecting or enforcing an obligation[;].**

42 **(2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a**
 43 **customer’s request, fails to refund money that the customer gave to the person to purchase the**
 44 **undelivered real estate, goods or services and that the person does not retain pursuant to any right,**
 45 **claim or defense the person may assert in good faith. This subsection does not create a warranty**

1 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered
2 to a customer[;].

3 (3) Violates ORS 401.965 (2)[;].

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

5 (5) Violates ORS 646A.530[;].

6 (6) Employs a collection practice that is unlawful under ORS 646.639[;].

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

8 (8) Violates ORS 646A.093[;].

9 (9) Violates a provision of ORS 646A.600 to 646A.628[;].

10 (10) Violates ORS 646A.808 (2)[; *or*].

11 (11) Violates ORS 336.184.

12 (12) **Fails to report a complaint under section 2 (2) of this 2017 Act.**

13 **SECTION 4. (1) Section 2 of this 2017 Act and the amendments to ORS 646.607 by section**
14 **3 of this 2017 Act become operative on January 1, 2018.**

15 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
16 **and take any other action before the operative date specified in subsection (1) of this section**
17 **that is necessary to enable the director, on and after the operative date specified in sub-**
18 **section (1) of this section, to exercise all of the duties, functions and powers conferred on**
19 **the director by section 2 of this 2017 Act and the amendments to ORS 646.607 by section 3**
20 **of this 2017 Act.**

21 **SECTION 5. This 2017 Act takes effect on the 91st day after the date on which the 2017**
22 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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