

Enrolled Senate Bill 166

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Oregon State Bar)

CHAPTER

AN ACT

Relating to the Oregon State Bar; amending ORS 1.220, 1.635, 1.730, 1.735, 1.760, 3.050, 3.300, 9.005, 9.010, 9.025, 9.030, 9.040, 9.042, 9.050, 9.055, 9.080, 9.112, 9.114, 9.136, 9.148, 9.150, 9.152, 9.155, 9.160, 9.180, 9.191, 9.200, 9.220, 9.241, 9.250, 9.261, 9.280, 9.490, 9.515, 9.527, 9.529, 9.532, 9.534, 9.536, 9.537, 9.539, 9.542, 9.555, 9.568, 9.625, 9.635, 9.645, 9.655, 9.657, 9.665, 9.675, 9.685, 9.688, 9.695, 9.705, 9.710, 9.715, 9.720, 9.725, 9.727, 9.730, 9.735, 9.745, 9.750, 9.755, 9.757, 9.820, 18.635, 20.075, 25.010, 40.090, 45.135, 51.020, 51.025, 51.240, 51.245, 86.713, 86.782, 87.430, 87.435, 87.440, 87.445, 87.450, 87.455, 87.460, 90.100, 94.881, 105.100, 127.532, 146.015, 172.010, 173.135, 180.235, 183.610, 183.690, 192.461, 194.375, 197.810, 221.142, 221.342, 238.535, 240.123, 244.250, 398.012, 398.420, 418.043, 419B.866, 646.608, 654.290, 656.724, 657.775, 696.182 and 701.160 and section 4, chapter 682, Oregon Laws 1999, and section 50, chapter 72, Oregon Laws 2023, and ORCP 7 B, 7 C and 17 A.

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

SECTION 1. ORS 9.005 is amended to read:

9.005. As used in ORS 9.005 to 9.757, unless the context or subject matter requires otherwise:

- (1) “Attorney” means an attorney [*member*] **licensee** of the Oregon State Bar.
- (2) “Board” and “board of governors” mean the board of governors of the bar.
- (3) “Delegate” means a delegate of the house of delegates of the Oregon State Bar.
- (4) “Governor” means a member of the board of governors of the bar.
- (5) “House” and “house of delegates” mean the house of delegates of the Oregon State Bar.
- (6) [*“Member” means a member or associate member*] **“Licensee” means a licensee or associate licensee** of the Oregon State Bar.

(7) “Oregon State Bar,” “state bar” and “bar” mean the Oregon State Bar created by the State Bar Act set forth in ORS 9.005 to 9.757.

(8) “Rules of procedure” means the rules of procedure relative to admission, discipline, resignation and reinstatement of [*members*] **licensees** of the bar adopted by the board and approved by the Supreme Court.

SECTION 2. ORS 9.010 is amended to read:

9.010. (1) A [*member*] **licensee**, admitted to practice in this state, is an officer of the court.

(2) The Oregon State Bar is a public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon. The bar is authorized to carry out the provisions of ORS 9.005 to 9.757.

(3) The bar is subject to the following statutes applicable to public bodies:

- (a) ORS 30.210 to 30.250.
- (b) ORS 30.260 to 30.300.
- (c) ORS 30.310, 30.312, 30.390 and 30.400.
- (d) The Oregon Rules of Civil Procedure.
- (e) ORS 192.311 to 192.478.
- (f) ORS 192.610 to 192.705.
- (g) ORS 243.401 to 243.507.
- (h) ORS 244.010 to 244.040.
- (i) ORS 297.110 to 297.230.
- (j) ORS chapters 307, 308 and 311.
- (k) ORS 731.036 and 737.600.

(4) Except as provided in subsection (3) of this section, the bar is not subject to any statute applicable to a state agency, department, board or commission or public body unless the statute expressly provides that it is applicable to the Oregon State Bar.

(5) The Oregon State Bar has perpetual succession and a seal, and may sue and be sued. Notwithstanding the provisions of ORS 270.020 and 279.835 to 279.855 and ORS chapters 278, 279A, 279B and 279C, the bar may, in its own name, for the purpose of carrying into effect and promoting its objectives, enter into contracts and lease, acquire, hold, own, encumber, insure, sell, replace, deal in and with and dispose of real and personal property.

(6) No obligation of any kind incurred or created under this section shall be, or be considered, an indebtedness or obligation of the State of Oregon.

SECTION 3. ORS 9.025 is amended to read:

9.025. (1)(a) The Oregon State Bar shall be governed by a board of governors consisting of 19 members:

(A) Fourteen of the members shall be active [*members*] **licensees** of the Oregon State Bar elected from the regions established under subsection (2)(a) of this section. A member elected under this subparagraph must maintain the member's principal office in the region for which the member seeks election throughout the member's candidacy and term of office.

(B) One member shall be an active [*member*] **licensee** of the Oregon State Bar elected from the region established under subsection (2)(b) of this section. The member elected under this subparagraph must maintain the member's principal office in the region established under subsection (2)(b) of this section throughout the member's candidacy and term of office.

(C) Four of the members shall be appointed by the board of governors from among the public. The public members must be residents of this state throughout their terms of office and may not be active or inactive [*members*] **licensees** of the Oregon State Bar.

(b) A person charged with official duties under the executive and legislative departments of state government, including but not limited to elected officers of state government, may not serve on the board of governors. Any other person in the executive or legislative department of state government who is otherwise qualified may serve on the board of governors.

(2) The board of governors shall establish regions for the purpose of electing board members as follows:

(a) The board shall divide the State of Oregon into regions for the purpose of electing board members described in subsection (1)(a)(A) of this section. Regions established under this paragraph must be based on the number of attorneys who have their principal offices in the region. To the extent that it is reasonably possible, regions established under this paragraph must be configured by the board so that the representation of board members to attorney population in each region is equal to the representation provided in other regions. At least once every 10 years the board shall review the number of attorneys in the regions and shall alter or add regions as the board determines is appropriate in seeking to attain the goal of equal representation.

(b) The board shall establish one region composed of all areas not located in the State of Oregon for the purpose of electing the board member described in subsection (1)(a)(B) of this section.

(3) Members of the board of governors may be elected only by the active *[members]* **licensees** of the Oregon State Bar who maintain their principal offices in the regions established by the board under subsection (2) of this section. The regular term of a member of the board is four years. The board may establish special terms for positions that are shorter than four years for the purpose of staggering the terms of members of the board. The board must identify a position with a special term before accepting statements of candidacy for the region in which the position is located. The board shall establish rules for determining which of the elected members for a region is assigned to the position with a special term.

(4) A judge of a municipal, state or federal court or any other full-time judicial officer is not eligible for appointment or election to the board of governors.

(5) The term of any member of the board of governors terminates on the date of the death or resignation of the member or, if the member of the board is required to be a *[member]* **licensee** of the Oregon State Bar, the term terminates on the date:

(a) Of the termination of active *[membership in]* **licensure** by the Oregon State Bar for any reason;

(b) When the member discontinues to maintain the principal office of law practice in the region in which it was maintained at the time of the appointment or election of the member; or

(c) When the member assumes office as a judge of a municipal, state or federal court, or fills a full-time judicial office.

(6) A member of the board of governors is not eligible during the member's term of office for service pro tempore as a judge of any municipal, state or federal court.

SECTION 4. ORS 9.030 is amended to read:

9.030. (1) An active *[member]* **licensee** of the Oregon State Bar shall vote for members of the board of governors and house of delegates representing the region in which the *[bar member]* **licensee** maintains the *[member's]* **licensee's** principal office.

(2) An active *[member]* **licensee** of the Oregon State Bar is eligible to be a candidate for, and to be appointed or elected to, the board of governors or house of delegates to represent the region in which the *[bar member]* **licensee** maintains the *[member's]* **licensee's** principal office.

SECTION 5. ORS 9.040 is amended to read:

9.040. (1) The election of governors shall be held annually on a date set by the board of governors. Any *[member]* **licensee** of the Oregon State Bar who is eligible to serve as a governor for a region may file a signed statement of candidacy for the region. Statements of candidacy must be filed with the chief executive officer of the bar. The board shall establish a deadline for filing statements of candidacy.

(2)(a) The bar shall distribute ballots containing the names of the candidates for the office of governor in each region to every active *[member]* **licensee** in the region. Voting must be completed on or before the day of the election. The chief executive officer shall canvass the votes and record the results of the election.

(b) The board by rule may provide for electronic elections under paragraph (a) of this subsection. Rules adopted under this paragraph may provide for electronic distribution of election materials and electronic tabulation of votes.

(3) In a region in which only one position is to be filled, the candidate receiving the highest vote shall be declared elected. If a region has more than one position to be filled, the candidate with the most votes received shall be declared elected, the candidate with the next highest number of votes received shall then be declared elected, and so on until all positions are filled. The balloting shall be conducted so that only eligible active *[members]* **licensees** can vote, and the secrecy of the ballot shall be preserved.

(4) Notwithstanding subsection (1) of this section, the board may not conduct an election for a region if the number of candidates for the region is equal to or less than the number of open positions for the region. If the number of candidates for the region is equal to or less than the number of open positions for the region, the board shall declare the candidate or candidates elected on a date specified by the board.

(5) A vacancy in the office of elective member of the board of governors that occurs more than 24 months before the expiration of the term shall be filled for the remainder of the term by a governor elected at a special election held in the manner provided in this section as soon as possible after the occurrence of the vacancy, or as provided in subsection (4) of this section if there is only one candidate. The vacancy may be filled for the period between the occurrence of the vacancy and the election of a new governor by a person appointed by the board. A vacancy in the office of elective member that occurs 24 months or less before the expiration of the term shall be filled for the remainder of the term by a person appointed by the board.

(6) A vacancy in the office of public member of the board of governors shall be filled for the remainder of the term by a governor appointed by the board.

SECTION 6. ORS 9.042 is amended to read:

9.042. (1) Upon the written request of any *[member]* **licensee** of the Oregon State Bar, or upon the board's own motion, the board of governors shall determine the eligibility of a candidate for the board. A request under this section must be filed with the chief executive officer of the bar within 30 days after the final day on which statements of candidacy are required to be filed. The board shall give written notice of the request to the candidate whose eligibility will be determined. The board shall provide an opportunity to the candidate to respond on the issue of the candidate's eligibility.

(2) The board shall give written notice to the candidate, and to any *[member]* **licensee** of the bar who has requested a determination on the eligibility of the candidate under the provisions of this section, of the board's determination on the candidate's eligibility. The notice must be given not later than 75 days after the final day on which statements of candidacy are required to be filed. The notice shall state the specific grounds for the board's determination.

(3) A candidate, or a *[member]* **licensee** of the bar who has requested a determination on the eligibility of a candidate under the provisions of this section, may file a petition for review of the board's determination with the Supreme Court. The petition for review must be filed within 15 days only after notice is given to a candidate or *[member]* **licensee** under subsection (2) of this section.

(4) Upon the timely filing of a petition for review under subsection (3) of this section, the Supreme Court has jurisdiction to resolve all issues arising under the Oregon Constitution, state statutes, rules of the court and rules of the board that are related to the eligibility of candidates for the board.

(5) The board of governors shall establish procedures for the implementation of subsections (1) and (2) of this section. The procedures shall be designed to ensure that there will be a final determination on the eligibility of a candidate for the board no later than 10 days before the distribution of the ballots to *[members]* **licensees** of the bar in the election that is affected by the determination.

(6) This section provides the exclusive procedure for challenging the eligibility of a candidate for the board. No other administrative or judicial proceeding may be brought to challenge the eligibility of a candidate for the board.

SECTION 7. ORS 9.050 is amended to read:

9.050. (1)(a) On petition signed by 25 percent of the *[members]* **licensees** in any region for the recall of any governor elected from that region, the chief executive officer of the Oregon State Bar shall serve notice as soon as possible on the governor informing the governor that the petition has been filed. If the governor does not resign within 10 days after the date the notice is served, the chief executive officer shall distribute ballots to each active *[member]* **licensee** of the bar within the region eligible to vote, submitting the question whether the governor shall be recalled. If a majority of the *[members]* **licensees** voting at the election vote in favor of the recall, the governor is recalled.

(b) On the affirmative vote of two-thirds of the entire membership of the board of governors, the board shall refer the question of the recall of any governor from any region to a vote of the *[members]* **licensees** of that region. The chief executive officer shall serve notice as soon as possible on the governor informing the governor that the board has approved a recall election. If the governor does not resign within 10 days after the notice is served, the chief executive officer shall distribute ballots to each active *[member]* **licensee** of the bar within the region eligible to vote, submitting the

question whether the governor shall be recalled. If a majority of the [members] **licensees** voting at the election vote in favor of the recall, the governor is recalled.

(c) The board of governors shall approve the ballot and any information submitted to the [members] **licensees** in connection with a recall vote.

(2) The board of governors may remove a member of the board on the affirmative vote of two-thirds of the entire membership of the board. For purposes of a vote under this subsection, three-fourths of the total number of members then in office shall constitute a quorum.

SECTION 8. ORS 9.055 is amended to read:

9.055. The board of governors shall appoint a chief executive officer of the Oregon State Bar. The chief executive officer is the chief administrative employee of the bar. The chief executive officer may, but need not, be a [member] **licensee** of the bar. The chief executive officer serves at the board's discretion and shall perform such duties as the board prescribes.

SECTION 9. ORS 9.080 is amended to read:

9.080. (1) The state bar shall be governed by the board of governors, except as provided in ORS 9.136 to 9.155. The state bar has the authority to adopt, alter, amend and repeal bylaws and to adopt new bylaws containing provisions for the regulation and management of the affairs of the state bar not inconsistent with law. The board is charged with the executive functions of the state bar and shall at all times direct its power to serve the public interest by:

- (a) Regulating the legal profession and improving the quality of legal services;
- (b) Supporting the judiciary and improving the administration of justice; and
- (c) Advancing a fair, inclusive and accessible justice system.

(2)(a)(A) The board has the authority to require all active [members] **licensees** of the state bar engaged in the private practice of law whose principal offices are in Oregon to carry professional liability insurance and is empowered, either by itself or in conjunction with other bar organizations, to do whatever is necessary and convenient to implement this provision, including the authority to own, organize and sponsor any insurance organization authorized under the laws of the State of Oregon and to establish a professional liability fund. This fund shall pay, on behalf of active [members] **licensees** of the state bar engaged in the private practice of law whose principal offices are in Oregon, all sums as may be provided under such plan which any such [member] **licensee** shall become legally obligated to pay as money damages because of any claim made against such [member] **licensee** as a result of any act or omission of such [member] **licensee** in rendering or failing to render professional services for others in the [member's] **licensee's** capacity as a [member] **licensee** practicing law or caused by any other person for whose acts or omissions the [member] **licensee** is legally responsible.

(B) The board has the authority to assess each active [member] **licensee** of the state bar engaged in the private practice of law whose principal office is in Oregon for contributions to the professional liability fund and to establish the date by which contributions must be made.

(C) The board has the authority to establish definitions of coverage to be provided by the professional liability fund and to retain or employ legal counsel to represent the fund and defend and control the defense against any covered claim made against the [member] **licensee**.

(D) The board has the authority to offer optional professional liability coverage on an underwritten basis above the minimum required coverage limits provided under the professional liability fund, either through the fund, through a separate fund or through any insurance organization authorized under the laws of the State of Oregon, and may do whatever is necessary and convenient to implement this provision. Any fund so established shall not be subject to the Insurance Code of the State of Oregon.

(E) Records of a claim against the professional liability fund are exempt from disclosure under ORS 192.311 to 192.478.

(F) The board shall establish a reasonable standard for claims submitted by associate [members] **licensees** to the professional liability fund. Each year, if the claims submitted by associate [members] **licensees** exceed the standard established under this subparagraph, the board shall

authorize substantially equivalent coverage for all [members] **licensees** for the following calendar year.

(b) For purposes of paragraph (a) of this subsection, a [member] **licensee** is not engaged in the private practice of law if the [member] **licensee** is a full-time employee of a corporation other than a corporation incorporated under ORS chapter 58, the state, an agency or department thereof, a county, city, special district or any other public or municipal corporation or any instrumentality thereof. However, a [member] **licensee** who practices law outside of the [member's] **licensee's** full-time employment is engaged in the private practice of law.

(c) For the purposes of paragraph (a) of this subsection, the principal office of a [member] **licensee** is considered to be the location where the [member] **licensee** engages in the private practice of law more than 50 percent of the time engaged in that practice. In the case of a [member] **licensee** practicing law in a branch office outside Oregon and the main office to which the branch office is connected is in Oregon, the principal office of the [member] **licensee** is not considered to be in Oregon unless the [member] **licensee** engages in the private practice of law in Oregon more than 50 percent of the time engaged in the private practice of law.

(3) The board may appoint such committees, officers and employees as it deems necessary or proper and fix and pay their compensation and necessary expenses. At any meeting of the board, [two-thirds] **three-fifths** of the total number of members then in office shall constitute a quorum. [It] **The board** shall promote and encourage voluntary county or other local bar associations.

(4) Except as provided in this subsection, an employee of the state bar shall not be considered an "employee" as the term is defined in the public employees' retirement laws. However, an employee of the state bar may, at the option of the employee, for the purpose of becoming a member of the Public Employees Retirement System, be considered an "employee" as the term is defined in the public employees' retirement laws. The option, once exercised by written notification directed to the Public Employees Retirement Board, may not be revoked subsequently, except as may otherwise be provided by law. Upon receipt of such notification by the Public Employees Retirement Board, an employee of the state bar who would otherwise, but for the exemption provided in this subsection, be considered an "employee," as the term is defined in the public employees' retirement laws, shall be so considered. The state bar and its employees shall be exempt from the provisions of the State Personnel Relations Law. No [member] **licensee** of the state bar shall be considered an "employee" as the term is defined in the public employees' retirement laws, the unemployment compensation laws and the State Personnel Relations Law solely by reason of [membership in] **licensure by** the state bar.

SECTION 10. Section 50, chapter 72, Oregon Laws 2023, is amended to read:

Sec. 50. For each year through 2026, the board of governors of the Oregon State Bar shall submit an annual report in the manner provided in ORS 192.245 to the committees or interim committees of the Legislative Assembly related to the judiciary on the aggregate covered claims submitted to the professional liability fund by [members] **licensees**, as defined in ORS 9.005.

SECTION 11. ORS 9.112 is amended to read:

9.112. The board of governors shall by rule establish minimum continuing legal education requirements for all active [members] **licensees** of the Oregon State Bar. Rules adopted by the board of governors are subject to review by the Supreme Court.

SECTION 12. ORS 9.114 is amended to read:

9.114. The Oregon State Bar shall adopt rules to establish minimum training requirements for all active attorney [members] **licensees** of the bar relating to the duties of attorneys under ORS 124.060 and 419B.010. Rules adopted under this section are subject to review and approval by the Supreme Court.

SECTION 13. ORS 9.136 is amended to read:

9.136. (1) The house of delegates of the Oregon State Bar is created. The house consists of elected and ex officio voting delegates. All delegates must be active [members] **licensees** of the state bar except for the public members of the board of governors and the public members appointed by the board pursuant to ORS 9.145.

(2) The members of the board of governors of the Oregon State Bar are ex officio voting delegates.

(3) The chairperson of each Oregon State Bar section is an ex officio voting delegate.

(4) The elected president of each county bar association is an ex officio voting delegate. Not more than one county bar association from each county may be represented by a delegate under this subsection.

(5) Elected delegates shall be elected from the regions established by ORS 9.025. Only active [members] **licensees** of the bar may vote for delegates. A [member] **licensee** may vote for delegates from the region in which the [member] **licensee** maintains the [member's] **licensee's** principal office.

(6) Each region shall elect at least five delegates. If more than 550 active [members] **licensees** maintain their principal offices in the region, the [members] **licensees** shall elect delegates as follows:

(a) The [members] **licensees** shall elect one delegate for each 100 [members] **licensees** who maintain their principal offices in the region.

(b) The [members] **licensees** shall elect one additional delegate if more than 50 [members] **licensees** who maintain their principal offices in the region are not accounted for after the allocation provided for in paragraph (a) of this subsection.

(7) Elected delegates shall serve for terms of three years. A vacancy in the office of an elected delegate shall be filled for the remainder of the term by a delegate appointed by the board of governors.

(8) An elected delegate may not serve as a member of the board of governors, as a section chairperson or as a county bar association president during the delegate's term.

(9) For the purposes of this section, "county bar association" means a general purpose bar association established by the lawyers of one or more counties for the purpose of maintaining good professional relations between members of the bench and **licensees** of the bar in the county or counties, and for the purpose of improving the administration of justice in the county or counties.

SECTION 14. ORS 9.148 is amended to read:

9.148. (1) Active [members] **licensees** of the Oregon State Bar may participate in the discussion of matters before the house of delegates, but only delegates may vote. The house of delegates may by rule impose restrictions on participation by [members] **licensees** of the state bar who are not delegates.

(2) The board of governors or the house of delegates, acting on its own motion, may refer to the [members] **licensees** of the bar by ballot any question or measure considered by the board or house to be appropriate for submission to a vote of the [members] **licensees**. Referral may be made under this subsection at any time.

(3) Active [members] **licensees** of the state bar, by written petition signed by at least two percent of all active [members] **licensees**, may have placed on the agenda of a meeting of the house of delegates any question or measure appropriate for a vote of the house. The petition shall contain the full text of the question or measure proposed. The petition must be filed with the chief executive officer of the bar at least 45 days before the annual or special meeting of the house specified in the petition at the meeting when the petitioners seek to have the question or measure considered.

(4) Active [members] **licensees** of the state bar, by written petition signed by no fewer than five percent of all active [members] **licensees**, may request that the board of governors submit to a vote of the [members] **licensees** any question or measure. The board of governors shall submit the question or measure to a vote of the [members] **licensees** of the bar if the question or measure is appropriate for a vote of the [members] **licensees**. The initiative petition must contain the full text of the question or measure proposed.

SECTION 15. ORS 9.150 is amended to read:

9.150. The term of service of any delegate shall end upon the death or resignation of the delegate. If the delegate is an attorney delegate, the term of service shall end on the date that the delegate:

(1) Terminates the delegate's active [*membership in*] **licensure** by the Oregon State Bar for any reason;

(2) Ceases to maintain the delegate's principal office in the region the delegate was appointed or elected to represent;

(3) Takes office as a member of the board of governors, as a chairperson of a state bar section or as a county bar association president; or

(4) Is recalled pursuant to ORS 9.155.

SECTION 16. ORS 9.152 is amended to read:

9.152. (1) The election of delegates to the house of delegates shall be held annually on a date set by the board of governors. The election shall be by ballot. Any [*member*] **licensee** of the Oregon State Bar who is eligible to serve as a [*member*] **delegate** for a region may file a signed statement of candidacy for the region. Statements of candidacy must be filed with the bar at least 30 days before the election.

(2)(a) The bar shall distribute ballots containing the names of the candidates for the office of delegate in each region to every active [*member*] **licensee** in the region. Voting must be completed on or before the day of the election. The chief executive officer shall canvass the votes and record the results of the election.

(b) The board by rule may provide for electronic elections under paragraph (a) of this subsection. Rules adopted under this paragraph may provide for electronic distribution of election materials and electronic tabulation of votes.

(3) In a region in which only one position is to be filled, the candidate receiving the highest vote shall be declared elected. If a region has more than one position to be filled, the candidate with the most votes received shall be declared elected, the candidate with the next highest number of votes received shall then be declared elected, and so on until all positions are filled. The balloting shall be conducted so that only eligible active [*members*] **licensees** can vote, and the secrecy of the ballot shall be preserved.

(4) Notwithstanding subsection (1) of this section, the board may not conduct an election for a region if the number of candidates for the region is equal to or less than the number of open positions for the region. If the number of candidates for the region is equal to or less than the number of open positions for the region, the board shall declare the candidate or candidates elected on a date specified by the board.

SECTION 17. ORS 9.155 is amended to read:

9.155. Upon the filing of a petition with the Oregon State Bar signed by 25 percent of the [*members*] **licensees** of the bar from a region for the recall of a delegate elected from that region, the chief executive officer of the bar shall serve notice on the delegate of the filing of the petition. If the delegate does not resign within 15 days after the date that the notice is served, the chief executive officer shall distribute ballots to each [*member*] **licensee** of the bar within the region. The ballots shall submit the question of whether the delegate should be recalled. If a majority of the [*members*] **licensees** voting in the election vote in favor of the recall, the delegate is recalled and the position held by the delegate becomes vacant upon the chief executive officer's declaration of the results of the election.

SECTION 18. ORS 9.160 is amended to read:

9.160. (1) Except as provided in this section, a person may not practice law in this state, or represent that the person is qualified to practice law in this state, unless the person is an active [*member*] **licensee** of the Oregon State Bar.

(2) Subsection (1) of this section does not affect the right to prosecute or defend a cause in person as provided in ORS 9.320.

(3) Any employee or volunteer of the Judicial Department acting with the authorization and direction of the Chief Justice or a presiding judge of a circuit court to provide assistance to members of the public with court processes, selecting and completing court forms and legal information is not engaged in the practice of law in violation of subsection (1) of this section.

(4) An individual licensed under ORS 696.022 acting in the scope of the individual's license to arrange a real estate transaction, including the sale, purchase, exchange, option or lease coupled with an option to purchase, lease for a term of one year or longer or rental of real property, is not engaged in the practice of law in this state in violation of subsection (1) of this section.

(5) A title insurer authorized to do business in this state, a title insurance agent licensed under the laws of this state or an escrow agent licensed under the laws of this state is not engaged in the practice of law in this state in violation of subsection (1) of this section if, for the purposes of a transaction in which the insurer or agent provides title insurance or escrow services, the insurer or agent:

(a) Prepares any satisfaction, reconveyance, release, discharge, termination or cancellation of a lien, encumbrance or obligation;

(b) Acts pursuant to the instructions of the principals to the transaction as scrivener to fill in blanks in any document selected by the principals;

(c) Presents to the principals to the transaction for their selection any blank form prescribed by statute, rule, ordinance or other law; or

(d) Presents to the principals to the transaction for their selection a blank form prepared or approved by a lawyer licensed to practice law in this state for one or more of the following:

(A) A mortgage.

(B) A trust deed.

(C) A promissory note.

(D) An assignment of a mortgagee's interest under a mortgage.

(E) An assignment of a beneficial interest under a trust deed.

(F) An assignment of a seller's or buyer's interest under a land sale contract.

(G) A power of attorney.

(H) A subordination agreement.

(I) A memorandum of an instrument that is to be recorded in place of the instrument that is the subject of the memorandum.

(6) In performing the services permitted in subsection (5) of this section, a title insurer, a title insurance agent or an escrow agent may not draft, select or give advice regarding any real estate document if those activities require the exercise of informed or trained discretion.

(7) The exemption provided by subsection (5) of this section does not apply to any acts relating to a document or form that are performed by an escrow agent under subsection (5)(b), (c) or (d) of this section unless the escrow agent provides to the principals to the transaction a notice in at least 12-point type as follows:

YOU WILL BE REVIEWING, APPROVING AND SIGNING IMPORTANT DOCUMENTS AT CLOSING. LEGAL CONSEQUENCES FOLLOW FROM THE SELECTION AND USE OF THESE DOCUMENTS. THESE CONSEQUENCES AFFECT YOUR RIGHTS AND OBLIGATIONS. YOU MAY CONSULT AN ATTORNEY ABOUT THESE DOCUMENTS. YOU SHOULD CONSULT AN ATTORNEY IF YOU HAVE QUESTIONS OR CONCERNS ABOUT THE TRANSACTION OR ABOUT THE DOCUMENTS. IF YOU WISH TO REVIEW TRANSACTION DOCUMENTS THAT YOU HAVE NOT YET SEEN, PLEASE CONTACT THE ESCROW AGENT.

(8) The exemption provided by subsection (5) of this section does not apply to any acts relating to a document or form that are performed by an escrow agent under subsection (5)(b), (c) or (d) of this section for a real estate sale and purchase transaction in which all or part of the purchase price consists of deferred payments by the buyer to the seller unless the escrow agent provides to the principals to the transaction:

(a) A copy of any proposed instrument of conveyance between the buyer and seller to be used in the transaction;

(b) A copy of any proposed deferred payment security instrument between the buyer and seller to be used in the transaction; and

(c) A copy of any proposed promissory note or other evidence of indebtedness between the buyer and seller to be used in the transaction.

(9) The notice and copies of documents that must be provided under subsections (7) and (8) of this section must be delivered in the manner most likely to ensure receipt by the principals to the transaction at least three days before completion of the transaction. If copies of documents have been provided under subsection (8) of this section and are subsequently amended, copies of the amended documents must be provided before completion of the transaction.

(10) Failure of any person to comply with the requirements of subsections (4) to (9) of this section does not affect the validity of any transaction and may not be used as a basis to challenge any transaction.

SECTION 19. ORS 9.180 is amended to read:

9.180. All persons admitted to practice law in this state thereby shall become active *[members]* **licensees** of the bar. Every *[member]* **licensee** shall be an active *[member]* **licensee** unless, at the *[member's]* **licensee's** request, or for reasons prescribed by statute, the rules of the Supreme Court, or the rules of procedure, the *[member]* **licensee** is enrolled as an inactive *[member]* **licensee**. An inactive *[member]* **licensee** may, on compliance with the rules of the Supreme Court and the rules of procedure and payment of all required fees, again become an active *[member]* **licensee**. Inactive *[members shall]* **licensees may** not hold office or vote, but they shall have such other privileges as the board may provide.

SECTION 20. ORS 9.191 is amended to read:

9.191. (1) Except as provided in subsection (2) of this section, the annual *[membership]* **licensure** fees to be paid by *[members]* **licensees** of the Oregon State Bar shall be established by the Board of Governors of the Oregon State Bar, and each year notice of the proposed fees for the coming year shall be published and distributed to the *[membership]* **licensees** not later than 20 days before the annual meeting of the house of delegates. Any increase in annual *[membership]* **licensure** fees over the amount established for the preceding year must be approved by a majority of delegates of the house of delegates voting thereon at the annual meeting of the house of delegates. The board shall establish the date by which annual *[membership]* **licensure** fees must be paid.

(2) The board shall establish prorated *[membership]* **licensure** fees payable for the year that a *[member]* **licensee** is admitted to the practice of law in this state. If the new *[member]* **licensee** is admitted on or before the date established by the board for the payment of annual *[membership]* **licensure** fees under subsection (1) of this section, the new *[member]* **licensee** must pay the full annual *[membership]* **licensure** fees established under subsection (1) of this section.

(3) In establishing annual *[membership]* **licensure** fees, the board shall consider and be guided by the anticipated financial needs of the state bar for the year for which the fees are established, time periods of *[membership]* **licensure** and active or inactive status of *[members]* **licensees**. Annual *[membership]* **licensure** fees may include any amount assessed under any plan for professional liability insurance for active *[members]* **licensees** engaged in the private practice of law whose principal offices are in Oregon as provided in ORS 9.080 (2).

SECTION 21. ORS 9.200 is amended to read:

9.200. (1) Any *[member]* **licensee** in default in payment of *[membership]* **licensure** fees established under ORS 9.191 (1) or any *[member]* **licensee** in default in payment of assessed contributions to a professional liability fund established under ORS 9.080 (2) shall be given written notice of delinquency and a reasonable time to cure the default. The chief executive officer of the Oregon State Bar shall send the notice of delinquency to the *[member]* **licensee** at the *[member's]* **licensee's** electronic mail address on file with the bar on the date of the notice. The chief executive officer shall send the notice by mail to any *[member]* **licensee** who is not required to have an electronic mail address on file with the bar under the rules of procedure **and the rules of the Supreme Court**. If a *[member]* **licensee** fails to pay the fees or contributions within the time allowed to cure the default as stated in the notice, the *[member]* **licensee** is automatically suspended. The chief

executive officer shall provide the names of all [*members*] **licensees** suspended under this section to the State Court Administrator and to each of the judges of the Court of Appeals, circuit and tax courts of the state.

(2) An active [*member*] **licensee** delinquent in the payment of fees or contributions is not entitled to vote.

(3) A [*member*] **licensee** delinquent in the payment of fees or contributions may be assessed a late payment penalty determined by the board of governors.

(4) A [*member*] **licensee** suspended for delinquency under this section may be reinstated only on compliance with the rules of the Supreme Court and the rules of procedure and payment of all required fees or contributions.

SECTION 22. ORS 9.220 is amended to read:

9.220. An applicant for admission as a [*member*] **licensee** of the bar must apply to the Supreme Court and show that the applicant:

(1) Is at least 18 years old, which proof may be made by the applicant's affidavit.

(2)(a) Is a person of good moral character and fit to practice law.

(b) For purposes of this section and ORS 9.025, 9.070, 9.110, 9.210, 9.250 and 9.527, the lack of "good moral character" may be established by reference to acts or conduct that reflect moral turpitude or to acts or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation. The conduct or acts in question should be rationally connected to the applicant's fitness to practice law.

(3) Has the requisite learning and ability, which must be shown by the examination of the applicant, by the judges or under their direction. However, no rule shall establish any maximum on the number of times an applicant may apply for and take the bar examination whenever presented if the reason for refusing admission to practice law is failure to pass the bar examination.

SECTION 23. ORS 9.241 is amended to read:

9.241. (1) Notwithstanding ORS 9.160, the Supreme Court may adopt rules to govern the appearance in judicial and administrative proceedings by attorneys who have not been admitted to practice law in this state. Subject to those rules, an attorney who has not been admitted to practice law in this state may appear as counsel for a party in an action or proceeding before a court, or may appear as counsel for a party in an administrative proceeding, if the attorney is associated with an active [*member*] **licensee** of the Oregon State Bar.

(2) Notwithstanding ORS 9.160, the Supreme Court may adopt rules pursuant to the procedures established by ORS 9.490 that allow attorneys who have not been admitted to practice law in this state to practice law in Oregon on a temporary basis, including performing transactional or prelitigation work.

(3) Notwithstanding ORS 9.160, the Supreme Court may adopt rules pursuant to ORS 9.210 to admit individuals with substantial legal education as associate [*members*] **licensees** of the Oregon State Bar without taking the examination required by ORS 9.210. An individual admitted as an associate [*member*] **licensee** under this subsection must meet all character and fitness requirements under ORS 9.220.

(4) The Supreme Court may by rule require the payment of a fee by an attorney appearing as counsel for a party in an action or proceeding before a court under the provisions of subsection (1) of this section. All amounts collected from any fee imposed by the Supreme Court under the provisions of this subsection shall be deposited with the Oregon State Bar and are continuously appropriated to the Oregon State Bar. Amounts appropriated to the Oregon State Bar under this subsection may be used only for the funding of legal services provided through the Legal Services Program established under ORS 9.572 and for expenses incurred by the Oregon State Bar in the administration of the Legal Services Program and in collecting fees imposed under this subsection.

SECTION 24. ORS 9.250 is amended to read:

9.250. (1) If the Supreme Court finds that an applicant for admission as a [*member*] **licensee** of the bar is 18 years of age or more, is of good moral character and fit to practice law, and possesses

the requisite learning and ability to practice as a [member] **licensee**, the court shall enter an order that the applicant be admitted to practice as a [member] **licensee**. The order shall specify that admission take effect upon the applicant taking the oath required by subsection (2) of this section.

(2) The applicant shall execute a written oath that in the practice of law the applicant will support the Constitution and laws of the United States and of this state, and be of faithful and honest demeanor in office. The applicant is entitled to practice as a [member] **licensee** after the State Court Administrator has received the oath executed under this subsection.

SECTION 25. ORS 9.261 is amended to read:

9.261. (1) A [member] **licensee** may resign from [membership in] **licensure** by the bar pursuant to rules adopted by the board under ORS 9.542. After acceptance of the resignation by the Supreme Court, the [member] **licensee** shall not be entitled to the rights nor subject to the disabilities or prohibitions incident to [membership] **licensure**, except that the [member] **licensee** is still subject to the power of the court in respect to matters arising prior to the resignation.

(2) A [member] **licensee** who has resigned may be readmitted to practice only in compliance with rules adopted pursuant to ORS 9.542.

SECTION 26. ORS 9.280 is amended to read:

9.280. (1) It shall be a violation of ORS 9.160 for any person to engage in the business or act in the capacity of an immigration consultant in this state, for compensation, unless the person is an active [member] **licensee** of the Oregon State Bar.

(2) As used in this section, unless the context or subject matter requires otherwise:

(a) "Immigration consultant" means any person who gives advice on an immigration matter, including but not limited to drafting an application, brief, document, petition or other paper or completing a form provided by a federal or state agency in an immigration matter.

(b) "Immigration matter" means any proceeding, filing or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Department of Homeland Security, the United States Department of Justice, the United States Department of State or the United States Department of Labor.

(3) This section does not apply to any person or qualified designated entity authorized by federal law to represent persons before the United States Department of Homeland Security or the United States Department of Justice.

SECTION 27. ORS 9.490 is amended to read:

9.490. (1) The board of governors, with the approval of the house of delegates given at any regular or special meeting, shall formulate rules of professional conduct for attorneys, and when such rules are adopted by the Supreme Court, shall have power to enforce the same. Such rules shall be binding upon all attorney [members] **licensees** of the bar.

(2) A court of this state may not order that evidence be suppressed or excluded in any criminal trial, grand jury proceeding or other criminal proceeding, or order that any criminal prosecution be dismissed, solely as a sanction or remedy for violation of a rule of professional conduct adopted by the Supreme Court.

SECTION 28. ORS 9.515 is amended to read:

9.515. (1) Nothing contained in ORS 9.505 shall prevent referral of claims, suits or actions between [members] **licensees** of the bar.

(2) The provisions of ORS 9.505 shall not prohibit the referral of claims, suits or actions between [members] **licensees** of the bar or the dividing of fees for legal services with another [member] **licensee** consistent with the rules of professional conduct adopted pursuant to ORS 9.490.

SECTION 29. ORS 9.527 is amended to read:

9.527. The Supreme Court may disbar, suspend or reprimand a [member] **licensee** of the bar whenever, upon proper proceedings for that purpose, it appears to the court that:

(1) The [member] **licensee** has committed an act or carried on a course of conduct of such nature that, if the [member] **licensee** were applying for admission to the bar, the application should be denied;

(2) The [member] **licensee** has been convicted in any jurisdiction of an offense which is a misdemeanor involving moral turpitude or a felony under the laws of this state, or is punishable by death or imprisonment under the laws of the United States, in any of which cases the record of the conviction shall be conclusive evidence;

(3) The [member] **licensee** has willfully disobeyed an order of a court requiring the [member] **licensee** to do or forbear an act connected with the legal profession;

(4) The [member] **licensee** is guilty of willful deceit or misconduct in the legal profession;

(5) The [member] **licensee** is guilty of willful violation of any of the provisions of ORS 9.460 or 9.510;

(6) The [member] **licensee** is guilty of gross or repeated negligence or incompetence in the practice of law; or

(7) The [member] **licensee** has violated any of the provisions of the rules of professional conduct adopted pursuant to ORS 9.490.

SECTION 30. ORS 9.529 is amended to read:

9.529. Bar proceedings relating to discipline, admission and reinstatement are neither civil nor criminal in nature. They are sui generis and within the inherent power of the Supreme Court to control. The grounds for denying any applicant admission or reinstatement or for the discipline of [members] **licensees** set forth in ORS 9.005 to 9.757 are not intended to limit or alter the inherent power of the Supreme Court to deny any applicant admission or reinstatement to the bar or to discipline a [member] **licensee** of the bar.

SECTION 31. ORS 9.532 is amended to read:

9.532. The Supreme Court shall appoint a state professional responsibility board to institute disciplinary proceedings of the Oregon State Bar against [members] **licensees** of the bar, as provided in the bar bylaws and the rules of the Supreme Court.

SECTION 32. ORS 9.534 is amended to read:

9.534. (1) The Supreme Court shall appoint a disciplinary board, which may include one or more professional adjudicators as set forth in the rules of the Supreme Court and the Oregon State Bar bylaws, to adjudicate disciplinary proceedings of the bar.

(2) A [member] **licensee**, formally accused of misconduct by the bar, shall be given reasonable written notice of the charges against the [member] **licensee**, a reasonable opportunity to defend against the charges, the right to be represented by counsel, and the right to examine and cross-examine witnesses. The [member] **licensee** has the right to appear and testify, and the right to the issuance of subpoenas for attendance of witnesses and the production of books, papers or documents in the defense of the [member] **licensee**.

(3) Rules of evidence and discovery in disciplinary proceedings shall be as provided in the rules of procedure.

(4)(a) The disciplinary board has the authority to take evidence, administer oaths or affirmations, and issue subpoenas to compel the attendance of witnesses, including the accused [member] **licensee**, and the production of books, papers and documents pertaining to the matter before the disciplinary board.

(b) A witness in a disciplinary proceeding who testifies falsely, fails to appear when subpoenaed, or fails to produce any books, papers or documents pursuant to subpoena, is subject to the same orders and penalties to which a witness before a circuit court is subject. Subpoenas issued pursuant to paragraph (a) of this subsection may be enforced by application to any circuit court.

(c) Any member of the disciplinary board may administer oaths or affirmations and issue any subpoena provided for in paragraph (a) of this subsection.

(5) The hearing before the disciplinary board shall be held in the county in which the [member] **licensee** charged maintains an office for the practice of law, the county in which the [member] **licensee** resides, or the county in which the offense is alleged to have been committed. With the consent of the [member] **licensee**, the hearing may be held elsewhere in the state.

(6) A record of all hearings shall be made and preserved by the disciplinary board.

SECTION 33. ORS 9.536 is amended to read:

9.536. (1) Upon the conclusion of a hearing, the disciplinary board shall file with the State Court Administrator a written decision in the matter. The Oregon State Bar or the accused may seek review of the decision by the Supreme Court. Such review shall be a matter of right upon the request of either party. Otherwise, the decision of the disciplinary board shall be final. The procedure for seeking discretionary review and on review shall be as provided in the rules of procedure.

(2) When a matter is before the Supreme Court for review, the court shall consider the matter de novo and may adopt, modify or reject the decision of the disciplinary board in whole or in part and thereupon enter an appropriate order.

(3) The Supreme Court, or the disciplinary board in cases where its decision has become final, may award judgment in any bar proceeding for all or part of a party's actual and necessary costs and disbursements incurred. The procedures for recovery of such costs and disbursements shall be the same as in civil cases.

(4) The State Court Administrator shall enter any judgment for costs and disbursements in the records of the Supreme Court and shall forward a certified copy of the judgment to the clerk of the circuit court of the county in which the [member] **licensee** or applicant resides or maintains an office for the practice of law or other business. If a judgment for costs and disbursements is entered against the bar, the State Court Administrator shall forward a certified copy of the judgment to the clerk of the circuit court of the county in which the bar maintains its principal place of business. On receipt of a certified copy of the judgment, the clerk of the circuit court shall file it and cause it to be entered in the circuit court register. Such judgment shall thereafter have the same force and effect, may be enforced by execution in the same manner, may be extended in the same manner and, upon payment, shall be satisfied in the same manner as other judgments entered in circuit court.

SECTION 34. ORS 9.537 is amended to read:

9.537. (1) Any person who has made a complaint to the bar concerning the conduct of a [member] **licensee**, or who has given information or testimony in or relative to a proposed or pending admission, reinstatement or disciplinary proceeding is absolutely immune from civil liability for any such acts.

(2) The Oregon State Bar and its officers, the members of the state professional responsibility board, the board of bar examiners, the board of governors and the disciplinary board, bar counsel, investigators, disciplinary monitors, mentors and employees of the bar are absolutely immune from civil liability in the performance of their duties relative to proposed or pending admission, professional licensing requirements, reinstatement or disciplinary proceedings.

SECTION 35. ORS 9.539 is amended to read:

9.539. ORS 9.534 and 9.536 apply to admission and reinstatement proceedings to the extent provided in the rules of procedure **and the rules of the Supreme Court**. However, the Supreme Court shall review the decisions of the disciplinary board in all such matters.

SECTION 36. ORS 9.542 is amended to read:

9.542. (1) The board of governors, subject to the approval of the Supreme Court, may adopt rules of procedure relating to the investigation of the conduct of [members] **licensees** and applicants for admission and reinstatement to the bar, and relating to the conduct of admission, reinstatement and disciplinary proceedings.

(2) For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the board of governors may require the fingerprints of a person who is applying for admission or reinstatement to the bar or for renewal of a license issued by the bar.

SECTION 37. ORS 9.555 is amended to read:

9.555. (1) Upon commencement of any action in which the bar is a plaintiff, the bar shall mail a copy of the complaint by certified or registered mail, return receipt requested, to the Attorney General and shall file proof of such mailing with the court.

(2) When the bar is served with summons and complaint in an action in which the bar is named as a defendant, the bar shall give notice to the Attorney General by mailing a copy of the summons

and complaint to the Attorney General by certified or registered mail, return receipt requested, within five working days of the date of service on the bar.

(3) The notice provisions of subsections (1) and (2) of this section shall not apply to matters involving admission of any applicant to the bar, discipline or reinstatement of a *[member]* **licensee** of the bar or claims made against a *[member]* **licensee** of the bar for which the professional liability fund of the bar may be obligated to pay money damages under ORS 9.080 (2).

SECTION 38. ORS 9.568 is amended to read:

9.568. (1)(a) The board of governors of the Oregon State Bar may create a state lawyers assistance committee for the purpose of implementing a *[members]* **licensees** assistance program and, pursuant thereto, authorize the state lawyers assistance committee to investigate and resolve complaints or referrals regarding *[members]* **licensees** whose performance or conduct may impair their ability to practice law or their professional competence.

(b) The board may adopt rules for the operation of the state lawyers assistance committee.

(c) The purpose of the state lawyers assistance committee is the provision of supervision and assistance to those *[members]* **licensees** whose performance or conduct may impair their ability to practice law or their professional competence.

(2)(a) In addition to the state lawyers assistance committee created under subsection (1) of this section, the board may create personal and practice management assistance committees to provide assistance to *[members]* **licensees** who are suffering from impairment or other circumstances that may adversely affect professional competence or conduct. Personal and practice management assistance committees may also provide advice and training to *[members]* **licensees** in practice management.

(b) The board may adopt rules governing the provision of assistance to *[members]* **licensees** by personal and practice management assistance committees.

(c) The purpose of a personal and practice management assistance committee is the provision of completely confidential assistance, advice and training to *[members]* **licensees** in a manner that fosters maximum openness in communications between a *[member]* **licensee** and the committee and that encourages a *[member]* **licensee** to seek assistance from the committee.

(3) Any information provided to or obtained by the state lawyers assistance committee or any personal and practice management assistance committee, or provided to or obtained by any agent of those committees, is:

(a) Confidential;

(b) Exempt from the provisions of ORS 192.311 to 192.478;

(c) Not discoverable or admissible in any civil proceeding without the written consent of the *[member]* **licensee** to whom the information pertains; and

(d) Not discoverable or admissible in any disciplinary proceeding except to the extent provided by rules of procedure adopted pursuant to ORS 9.542.

(4) The limitations placed on the disclosure and admissibility of information in this section shall not apply to information relating to a *[member's]* **licensee's** noncooperation with the state lawyers assistance committee or any agent of the committee, or to information otherwise obtained by the bar from any other source.

(5) The board may authorize the state lawyers assistance committee to act as the monitor or supervisor for *[members]* **licensees** placed on probation or in diversion in connection with a disciplinary investigation or proceeding, or who have been conditionally admitted or reinstated to the practice of law. Any information provided to or obtained by the state lawyers assistance committee when the committee acts as a monitor or supervisor under the provisions of this subsection is not subject to subsection (3) of this section.

(6) All meetings of the state lawyers assistance committee and the personal and practice management assistance committees are exempt from the provisions of ORS 192.610 to 192.705.

(7) Any person who makes a complaint or referral to the bar as to the competence of a *[member]* **licensee** or provides information or testimony in connection with the state lawyers as-

sistance committee or any personal and practice management assistance committee is not subject to an action for civil damages as a result thereof.

(8) With respect to their acts in connection with the state lawyers assistance committee or any personal and practice management assistance committee, the same privileges and immunities from civil and criminal proceedings that apply to prosecuting and judicial officers of the state shall apply to the board, all officers and employees of the bar, and the members of the committees and their agents.

(9) For the purposes of this section, agents of the state lawyers assistance committee or a personal and practice management assistance committee include investigators, attorneys, associate [members] **licensees** licensed to practice law, counselors, staff personnel and any other individual or entity acting on behalf of or at the request of the committees.

SECTION 39. ORS 9.625 is amended to read:

9.625. The board of governors may adopt a plan to relieve or mitigate pecuniary losses to the clients of active [members] **licensees** caused by dishonest conduct of those [members] **licensees** in their practice of law. The plan may provide for establishing, administering and dissolving a separate fund and for payments from that fund to reimburse losses and costs and expenses of administering the fund. The board may adopt rules of procedure to carry out the plan. The insurance laws of the state shall not apply to this fund.

SECTION 40. ORS 9.635 is amended to read:

9.635. A client security fund may include:

- (1) Transfers by the board of governors from other funds of the state bar;
- (2) Voluntary contributions and payments by [members] **licensees** under ORS 9.645;
- (3) Claims recovered under ORS 9.665; and
- (4) Income from investments of the fund.

SECTION 41. ORS 9.645 is amended to read:

9.645. To establish and maintain a client security fund, the board of governors may require an annual payment by each active [member] **licensee** of the state bar. The payment authorized by this section shall be due at the same time, and enforced in the same manner, as payment of the annual [membership] **licensure** fee.

SECTION 42. ORS 9.655 is amended to read:

9.655. (1) Upon the filing of a claim, verified under oath, by a client claiming a pecuniary loss payable from the client security fund, the board of governors or its designated representative shall determine if the person named in the claim as the [member] **licensee** whose dishonest conduct caused the loss was an active [member] **licensee** of the Oregon State Bar engaged in the practice of law in Oregon at the time of the transaction out of which the claim arose and whether the transaction arose out of the person's practice of law in Oregon. The board or designated representative shall then determine whether the loss was caused by the person's dishonest conduct and if the person:

- (a) Has been found guilty of a crime arising out of the dishonest conduct;
- (b) In the case of a claim of loss of \$5,000 or less, has been disbarred, suspended or reprimanded in disciplinary proceedings or has resigned from the bar due to circumstances arising out of the dishonest conduct; or
- (c) Is a judgment debtor under the money award portion of a judgment entered in favor of the client in a proceeding arising out of the dishonest conduct, and execution issued on the judgment has been returned uncollected or issuance of execution would be a useless act.

(2) At any time after a claim is filed by a client claiming a pecuniary loss payable from the client security fund, the board or the board's representative may compel by subpoena the person named in the claim as the [member] **licensee** whose dishonest conduct caused the loss, or any other person having knowledge of the matter, to appear for the purpose of giving testimony, and may compel by subpoena the production of records and documents pertinent to the claim. The subpoena shall have the same force and effect as in a civil action in the circuit court, and may be enforced by order of the circuit court for the county in which the person was served.

SECTION 43. ORS 9.657 is amended to read:

9.657. (1) Any person who has made a claim with the client security fund committee of the bar concerning a loss allegedly caused by the intentional dishonest conduct of a *[member]* **licensee** representing the person, or who has given information to the bar relative to a client security fund claim or award shall be absolutely immune from civil liability for such acts.

(2) The Oregon State Bar, its officers, the members of the client security fund committee, the board of governors, bar counsel, investigators and employees of the bar shall be absolutely immune from civil liability in the performance of their duties relative to client security fund claims or awards.

SECTION 44. ORS 9.665 is amended to read:

9.665. (1) Except as provided in this section, reimbursement from the client security fund is discretionary with the board of governors.

(2) The board shall not authorize payment unless the conditions of ORS 9.655 (1) have been found to exist. However, the board may, in its sole discretion, waive one or more of the conditions of ORS 9.655 (1) in cases of extreme hardship or special and unusual circumstances. The state bar is subrogated, in the amount that a client's claim is reimbursed from the client security fund, to all rights and remedies of that client against the *[member]* **licensee** whose dishonest conduct caused the loss, against the estate of the *[member]* **licensee** or against any other person liable for the loss.

SECTION 45. ORS 9.675 is amended to read:

9.675. (1) An active *[member]* **licensee** of the Oregon State Bar shall certify annually to the bar whether the *[member]* **licensee** maintains any lawyer trust accounts in Oregon. If a *[member]* **licensee** maintains one or more lawyer trust accounts, the *[member]* **licensee** must disclose the financial institution in which each account is held and the account number for each account. The chief executive officer of the bar shall prescribe a form and due date for the certification and disclosures required by this section.

(2) If a *[member]* **licensee** does not file the certification and disclosures required by this section by the due date prescribed under subsection (1) of this section, the chief executive officer shall give the *[member]* **licensee** written notice of default and prescribe a reasonable time to cure the default. The chief executive officer shall send the notice of default to the *[member]* **licensee** at the *[member's]* **licensee's** electronic mail address on file with the bar on the date of the notice of default. The chief executive officer shall send the notice of default by mail to any *[member]* **licensee** who is not required to have an electronic mail address on file with the bar under the rules of procedure **and the rules of the Supreme Court**. If a *[member]* **licensee** does not file the certification and disclosures required by this section within the time allowed to cure the default as stated in the notice of default, the person's *[membership in the bar]* **bar license** is automatically suspended. The chief executive officer shall provide the names of all persons suspended under this section to the judges of the circuit courts, the Court of Appeals and the Oregon Tax Court.

(3) A person **whose bar license is** suspended under this section may be reinstated *[to membership]* in the bar only if the person pays all required fees and contributions and complies with all rules of procedure and rules of the Supreme Court relating to reinstatement.

SECTION 46. ORS 9.685 is amended to read:

9.685. (1) Subject to the requirements of ORS 9.490, the Supreme Court may establish a trust account overdraft notification program for *[members]* **licensees**.

(2) The board of governors may adopt regulations for the administration of a trust account overdraft notification program established under this section. Regulations adopted under this subsection are binding upon all *[members]* **licensees** of the bar only after those regulations are approved by the Supreme Court.

SECTION 47. ORS 9.688 is amended to read:

9.688. A circuit court has jurisdiction to determine who is entitled to property contained in a lawyer trust account during a probate of a deceased *[member's]* **licensee's** estate.

SECTION 48. ORS 9.695 is amended to read:

9.695. (1) Notwithstanding ORS 133.535, the files, papers, effects or work premises of a [member] **licensee** relating to the provision of legal service by the [member] **licensee** shall not be subject to search or seizure by any law enforcement officer, either by search warrant or otherwise.

(2) The provisions of subsection (1) of this section do not apply where there is probable cause to believe that the [member] **licensee** has committed, is committing or is about to commit a crime.

(3) As used in this section, [*“member” means a member or associate member*] **“licensee” means a licensee or associate licensee** of the Oregon State Bar or a person licensed to practice law in any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

(4) Evidence or the fruits thereof obtained in violation of this section shall be inadmissible in any criminal or civil action or proceeding, except for an action or suit brought for violation of this section or the rights protected thereby.

SECTION 49. ORS 9.705 is amended to read:

9.705. As used in ORS 9.705 to 9.757:

(1) “Affected [member] **licensee**” means a [*member or former member*] **licensee or former licensee** of the Oregon State Bar whose law practice is placed within the jurisdiction of the court under ORS 9.720 or as to whom a petition has been filed to place such law practice within the jurisdiction of the court under ORS 9.715.

(2) “Law practice” means a practice conducted by an individual, a partnership or a professional corporation.

SECTION 50. ORS 9.710 is amended to read:

9.710. The circuit court of the county in which a [member] **licensee** engaged in the practice of law in this state maintains or has maintained a principal office has jurisdiction as provided in ORS 9.705 to 9.757 whenever the [member] **licensee** has died, is disbarred or suspended from the active practice of law, is incarcerated or has abandoned the practice and:

(1) The [member] **licensee** failed to make arrangements for the orderly suspension or termination of the law practice of the [member] **licensee**; or

(2) A duly appointed personal representative or other person assisting with the suspension or termination of the law practice is unable to adequately protect the interests of the [member’s] **licensee’s** clients.

SECTION 51. ORS 9.725 is amended to read:

9.725. (1) If the court assumes jurisdiction under ORS 9.705 to 9.757, it shall appoint the Oregon State Bar or, if the bar declines the appointment, an attorney, to act as custodian of the law practice of the affected [member] **licensee**. Immediately upon appointment, the bar shall take possession and control of all property over which the court assumed jurisdiction. The court may order the bar or the appointed attorney to do one or more of the following:

(a) Examine the files and records of the law practice and obtain information as to any pending matters which may require attention;

(b) Notify persons and entities who appear to be clients of the affected [member] **licensee** that the court has assumed jurisdiction and inform such persons that it may be in their best interest to obtain other legal counsel;

(c) Apply for extensions of time pending employment of other counsel by the client;

(d) File notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained;

(e) Give notice to appropriate persons and entities who may be affected, other than clients, that the court has assumed jurisdiction;

(f) Arrange for the surrender or delivery of clients’ papers or property; and

(g) Do such other acts as the court may direct to carry out the purposes of ORS 9.705 to 9.757.

(2) The court has jurisdiction over that portion of the files, records and property of the affected [member] **licensee** for the purposes of ORS 9.705 to 9.757 as established in the order, and may make all orders necessary or appropriate to protect the interest of the affected [member] **licensee**, the clients of the affected [member] **licensee** and the public.

(3) Any financial institution holding funds in a lawyer trust account of the affected [member] **licensee** shall release the funds to the bar or the appointed attorney upon presentment of a copy of the order appointing the custodian. The bar or the appointed attorney shall determine the ownership of the funds in the lawyer trust account and distribute the funds as directed by the interested client. Any funds for which ownership cannot be determined or for whom the owner cannot be located shall be turned over to the bar or the appointed attorney as provided in ORS 98.302 to 98.436.

(4) The court may not charge a filing fee for filing a petition under ORS 9.715.

SECTION 52. ORS 9.727 is amended to read:

9.727. The Oregon State Bar or an attorney appointed as custodian of a law practice under ORS 9.725 shall serve a copy of an order appointing the custodian on the affected [member] **licensee** or any person assisting in the suspension or termination of the affected [member's] **licensee's** practice. The bar or appointed attorney shall serve the copy of the order by regular mail to the last-known address of the affected [member] **licensee** in the records of the bar or to a duly appointed fiduciary at the address provided in an official filing. The affected [member] **licensee** or assisting person may, within 10 days of the service, request a hearing to challenge the order. After the hearing, the court may vacate or modify the custodianship order as the court finds appropriate.

SECTION 53. ORS 9.730 is amended to read:

9.730. After appointment as custodian of a law practice under ORS 9.725, the Oregon State Bar may engage the services of the Oregon State Bar Professional Liability Fund created under ORS 9.005 to 9.757 or any active [member] **licensee** of the bar to assist in the performance of the bar's duties as custodian. Acts performed by a [member] **licensee** of the bar in assisting the custodian do not constitute acceptance of employment by any client of the affected [member] **licensee**.

SECTION 54. ORS 9.735 is amended to read:

9.735. The court shall enter a judgment awarding reasonable compensation and expenses to the Oregon State Bar or an attorney appointed under ORS 9.725 for acting as custodian under ORS 9.705 to 9.757. The judgment shall be against the affected [member] **licensee** or the estate of the affected [member] **licensee**. The judgment is a lien upon all nontrust funds, office furnishings, supplies, equipment, library and other personal property used in the law practice of the affected [member] **licensee** retroactive to the date of filing of the petition for jurisdiction under ORS 9.705 to 9.757. The judgment lien takes priority over all general unsecured creditors, nonpossessory liens and security interests that were unperfected on the date the court assumed jurisdiction, and may be foreclosed as provided in ORS chapter 87.

SECTION 55. ORS 9.745 is amended to read:

9.745. Any applicable statute of limitations or time limit for the filing set by statute or rule of court as it relates to the affected [member's] **licensee's** clients shall be suspended automatically by the filing of a petition for jurisdiction under ORS 9.705 to 9.757 for a period of 120 days following the date of filing of such petition.

SECTION 56. ORS 9.750 is amended to read:

9.750. Persons examining the files and records of the law practice of an affected [member] **licensee** pursuant to ORS 9.705 to 9.757 shall preserve the confidentiality of the information relating to the affected [member's] **licensee's** representation of a client and shall make disclosure only to the extent necessary to carry out the purposes of ORS 9.705 to 9.757. Such disclosure is a disclosure which is reasonably necessary for the accomplishment of the purpose for which the affected [member] **licensee** was consulted. Communications between the Oregon State Bar or its designees or an attorney appointed as custodian of a law practice under ORS 9.725 and a client of the affected [member] **licensee** are subject to the attorney-client privilege to the same extent as it would have applied to communications by or to the affected [member] **licensee**.

SECTION 57. ORS 9.755 is amended to read:

9.755. Whenever the purposes of ORS 9.705 to 9.757 have been accomplished with respect to the law practice of an affected [member] **licensee** for which the Oregon State Bar or an attorney has been appointed as custodian under ORS 9.725, the bar or the appointed attorney shall file with the court a final report and accounting of all funds and property coming into the possession or control

of the bar or the appointed attorney as custodian and a petition for compensation and expenses of the bar or the appointed attorney for acting as custodian. The bar or the appointed attorney shall mail a copy of the report and accounting and a copy of the petition for compensation and expenses to all persons upon whom service was made pursuant to ORS 9.727. Upon approval by the court, an order shall be entered approving the final report and accounting, fixing the amount of compensation and expenses to be allowed to the bar or the appointed attorney, and discharging the bar or the attorney from further duties.

SECTION 58. ORS 9.757 is amended to read:

9.757. (1) Except as provided in subsection (2) of this section or by court order, the Oregon State Bar may dispose of client papers and files that have not been claimed by a client of an affected [member] **licensee** within six months after written notice to the client from the bar. The bar must dispose of the papers and files in a manner reasonably calculated to protect the confidentiality of the information contained in the papers and files.

(2) The bar may dispose of an unclaimed original will as provided in ORS 112.815 and 112.820.

(3) The bar shall maintain a log of all retained wills that is accessible to the public.

(4) Upon receipt of satisfactory proof of identity, the bar shall release a will belonging to a client to the client or to a duly appointed personal representative or conservator of the client.

(5) The bar may retain wills in digitized form, and a digitized copy, certified by the bar as a true copy of the digital document retained by the bar, shall be admissible in evidence to the same extent as the original.

SECTION 59. ORS 9.820 is amended to read:

9.820. (1) In all counties containing more than 700,000 inhabitants, according to the latest federal decennial census, the governing body of the county may:

(a) Enter into an intergovernmental agreement with the Judicial Department to provide law library services; or

(b) Enter into a contract with any law library association or corporation owning and maintaining a law library in the county at or convenient to the courthouse, for the use of the library by the judges of the circuit and county courts, county commissioners, district attorney and all [members] **licensees** of the bar.

(2) Law library services may include services provided by a family law facilitation program established under ORS 3.428 or a court facilitation program established under ORS 3.445.

SECTION 60. ORS 1.220 is amended to read:

1.220. (1) Except as provided in this section, a judicial officer appointed or elected to a full-time position may not act as an attorney in an action or proceeding.

(2) A judicial officer appointed or elected to a full-time position may act as an attorney in an action or proceeding if the judicial officer is an active [member] **licensee** of the Oregon State Bar and is either a party to the action or proceeding or the judicial officer has a direct interest in the action or proceeding.

(3) A judge of a county court or justice court who is an active [member] **licensee** of the Oregon State Bar:

(a) May act as an attorney in a court other than the court in which the judge presides; and

(b) May not be engaged in the practice of law with an attorney who appears in the court in which the judge presides.

(4) A judge pro tempore may not preside in an action or proceeding if an attorney who is engaged in the practice of law with the judge appears in the action or proceeding.

SECTION 61. ORS 1.635 is amended to read:

1.635. The Supreme Court may appoint any eligible person to serve as judge pro tempore of the Oregon Tax Court or as judge pro tempore of the circuit court in any county or judicial district, whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. A person is eligible for appointment if the person is a resident of this state and has been a [member] **licensee** in good standing of the Oregon State Bar for a period of at least three years next preceding the appointment.

SECTION 62. ORS 1.730 is amended to read:

1.730. (1) There is created a Council on Court Procedures consisting of:

(a) One judge of the Supreme Court, chosen by the Supreme Court.

(b) One judge of the Court of Appeals, chosen by the Court of Appeals.

(c) Eight judges of the circuit court, chosen by the Executive Committee of the Circuit Judges Association.

(d) Twelve [*members*] **licensees** of the Oregon State Bar, appointed by the Board of Governors of the Oregon State Bar. The Board of Governors, in making the appointments referred to in this paragraph, shall include but not be limited to appointments from [*members*] **licensees** of the bar active in civil trial practice, to the end that the lawyer members of the council shall be broadly representative of the trial bar and the regions of the state.

(e) One public member, chosen by the Supreme Court.

(2)(a) A quorum of the council shall be constituted by a majority of the members of the council. If a quorum is present, an affirmative vote by a majority of the members of the council who are present is required for action by the council on all matters other than promulgation of rules under ORS 1.735. An affirmative vote of fifteen members of the council shall be required to promulgate rules pursuant to ORS 1.735.

(b) The council shall adopt rules of procedure and shall choose, from among its membership, annually, a chairperson to preside over the meetings of the council.

(3)(a) All meetings of the council shall be held in compliance with the provisions of ORS 192.610 to 192.705.

(b) In addition to the requirements imposed by paragraph (a) of this subsection, with respect to the public hearings required by ORS 1.740 and with respect to any meeting at which final action will be taken on the promulgation, amendment or repeal of a rule under ORS 1.735, the council shall cause to be published or distributed to all [*members*] **licensees** of the bar, at least two weeks before such hearing or meeting, a notice which shall include the time and place and a description of the substance of the agenda of the hearing or meeting.

(c) The council shall make available upon request a copy of any rule which it proposes to promulgate, amend or repeal.

(4) Members of the Council on Court Procedures shall serve for terms of four years and shall be eligible for reappointment to one additional term, provided that, where an appointing authority has more than one vacancy to fill, the length of the initial term shall be fixed at either two or four years by that authority to accomplish staggered expiration dates of the terms to be filled. Vacancies occurring shall be filled by the appointing authority for the unexpired term.

(5) Members of the Council on Court Procedures shall not receive compensation for their services but may receive actual and necessary travel or other expenses incurred in the performance of their official duties as members of the council, as provided in ORS 292.210 to 292.288.

SECTION 63. ORS 1.735 is amended to read:

1.735. (1) The Council on Court Procedures shall promulgate rules governing pleading, practice and procedure, including rules governing form and service of summons and process and personal and in rem jurisdiction, in all civil proceedings in all courts of the state which shall not abridge, enlarge or modify the substantive rights of any litigant. The rules authorized by this section do not include rules of evidence and rules of appellate procedure. The rules thus adopted and any amendments which may be adopted from time to time, together with a list of statutory sections superseded thereby, shall be submitted to the Legislative Assembly at the beginning of each odd-numbered year regular session and shall go into effect on January 1 following the close of that session unless the Legislative Assembly shall provide an earlier effective date. The Legislative Assembly may, by statute, amend, repeal or supplement any of the rules.

(2) A promulgation, amendment or repeal of a rule by the council is invalid and does not become effective unless the exact language of the proposed promulgation, amendment or repeal is published or distributed to all [*members*] **licensees** of the bar at least 30 days before the meeting at which the council plans to take final action on the promulgation, amendment or repeal. If the language of the

proposed promulgation, amendment or repeal is changed by the council after consideration of the language at the meeting, the council must publish or distribute notification of the change to all [members] **licensees** of the bar within 60 days after the meeting. All changes made to proposed promulgations, amendments or repeals of rules pursuant to the provisions of this subsection must be clearly identified when the promulgation, amendment or repeal is submitted to the Legislative Assembly under subsection (1) of this section.

SECTION 64. ORS 1.760 is amended to read:

1.760. (1) The Council on Court Procedures shall elect five persons from among its members to serve as a legislative advisory committee. Two members of the committee shall be judges. Two members shall be [members] **licensees** of the Oregon State Bar who are not judges. One member shall be the public member designated under ORS 1.730 (1)(e). The committee shall elect one of its members to serve as chairperson of the committee.

(2) Upon the request of the chairperson of a legislative committee considering legislation that proposes changes to the Oregon Rules of Civil Procedure, the legislative advisory committee established under this section shall provide technical analysis and advice to the legislative committee. Analysis and advice shall be by a majority vote of the legislative advisory committee. The committee shall consult with and consider comments from the full Council on Court Procedures to the extent possible. Analysis and advice under this subsection must be provided within 10 days after the request from the chairperson of a legislative committee.

(3) The legislative advisory committee established under this section may vote to take a position on behalf of the Council on Court Procedures on proposed legislation. If the legislative advisory committee has voted to take a position on behalf of the council, the committee shall so indicate to the legislative committee.

(4) Members of the legislative advisory committee established under this section may meet by telephone and may vote by telephone. Meetings of the committee are not subject to ORS 192.610 to 192.705.

(5) Members of the legislative advisory committee established under this section may appear before legislative committees for the purpose of testifying on legislation that proposes changes to the Oregon Rules of Civil Procedure.

SECTION 65. ORS 3.050 is amended to read:

3.050. No person is eligible to the office of judge of the circuit court unless the person is a [member] **licensee** of the Oregon State Bar.

SECTION 66. ORS 3.300 is amended to read:

3.300. (1) Subject to the approval of the Chief Justice of the Supreme Court, the presiding judge for a judicial district may establish, and may terminate, the use of a panel of reference judges for the trial and disposition of civil actions in the circuit court under ORS 3.300 to 3.321.

(2) The Supreme Court, upon motion of the Chief Justice and the presiding judge may appoint any eligible person as a reference judge on the panel established under this section. A person is eligible for appointment as a reference judge if the person is a [member] **licensee** in good standing of the Oregon State Bar. An eligible person need not reside within the judicial district for which use of the panel is established.

(3) A person appointed as a reference judge on a panel may be removed from the panel by the Chief Justice or the presiding judge for the judicial district, in the sole discretion of the Chief Justice or presiding judge.

(4) A person appointed as a reference judge on a panel is subject to the jurisdiction of the Commission on Judicial Fitness and Disability and the Supreme Court under ORS 1.420 and 1.430 in the same manner as a judge of the circuit court.

(5) A person appointed as a reference judge on a panel shall not be considered to be, or to have the judicial powers, duties, jurisdiction and authority of, a judge of the circuit court except to the extent provided in ORS 3.300 to 3.321.

SECTION 67. ORS 18.635 is amended to read:

18.635. (1) A writ of garnishment may be issued only by a person specified in this section.

- (2) The court administrator may issue a writ pursuant to ORS 18.638 and 18.640 only:
 - (a) For the enforcement of a judgment that requires the payment of money and that has been entered in the register of a circuit court or docketed in the docket of a justice or municipal court;
 - (b) Pursuant to an order for provisional process under ORCP 83 and 84; or
 - (c) On behalf of a complainant or claimant under an order recorded pursuant to ORS 671.707 or 701.153, if the complainant or claimant has complied with the requirements of ORS 205.126.
- (3) An attorney who is an active [member] **licensee** of the Oregon State Bar may issue a writ for the purpose of enforcing:
 - (a) A judgment that requires payment of money and that has been entered in the register of a circuit court of this state or docketed in the docket of a justice or municipal court of this state; and
 - (b) An order or warrant that an agency has recorded in the County Clerk Lien Record as authorized by law, including any order that has been recorded pursuant to ORS 671.707 or 701.153.
- (4) The administrator, as defined in ORS 25.010, may issue writs of garnishment only for the collection of past due support. Writs issued under this subsection are subject to the provisions of ORS 18.645.

SECTION 68. ORS 20.075 is amended to read:

20.075. (1) A court shall consider the following factors in determining whether to award attorney fees in any case in which an award of attorney fees is authorized by statute and in which the court has discretion to decide whether to award attorney fees:

- (a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.
- (b) The objective reasonableness of the claims and defenses asserted by the parties.
- (c) The extent to which an award of an attorney fee in the case would deter others from asserting good faith claims or defenses in similar cases.
- (d) The extent to which an award of an attorney fee in the case would deter others from asserting meritless claims and defenses.
- (e) The objective reasonableness of the parties and the diligence of the parties and their attorneys during the proceedings.
- (f) The objective reasonableness of the parties and the diligence of the parties in pursuing settlement of the dispute.
- (g) The amount that the court has awarded as a prevailing party fee under ORS 20.190.
- (h) Such other factors as the court may consider appropriate under the circumstances of the case.

(2) A court shall consider the factors specified in subsection (1) of this section in determining the amount of an award of attorney fees in any case in which an award of attorney fees is authorized or required by statute. In addition, the court shall consider the following factors in determining the amount of an award of attorney fees in those cases:

- (a) The time and labor required in the proceeding, the novelty and difficulty of the questions involved in the proceeding and the skill needed to properly perform the legal services.
- (b) The likelihood, if apparent to the client, that the acceptance of the particular employment by the attorney would preclude the attorney from taking other cases.
- (c) The fee customarily charged in the locality for similar legal services.
- (d) The amount involved in the controversy and the results obtained.
- (e) The time limitations imposed by the client or the circumstances of the case.
- (f) The nature and length of the attorney's professional relationship with the client.
- (g) The experience, reputation and ability of the attorney performing the services.
- (h) Whether the fee of the attorney is fixed or contingent.
- (i) Whether the attorney performed the services on a pro bono basis or the award of attorney fees otherwise promotes access to justice.

(3) In any appeal from the award or denial of an attorney fee subject to this section, the court reviewing the award may not modify the decision of the court in making or denying an award, or

the decision of the court as to the amount of the award, except upon a finding of an abuse of discretion.

(4) Nothing in this section authorizes the award of an attorney fee in excess of a reasonable attorney fee.

(5) As used in this section and in any provision of law authorizing an award of attorney fees, "attorney" includes an associate [member] **licensee** of the Oregon State Bar practicing law in the [member's] **licensee's** approved scope of practice.

SECTION 69. ORS 25.010 is amended to read:

25.010. As used in ORS 25.501 to 25.556 and ORS chapters 25, 107 and 109 and any other statutes providing for support payments or support enforcement procedures, unless the context requires otherwise:

(1) "Administrator" means either the Administrator of the Division of Child Support of the Department of Justice or a district attorney, or the administrator's or a district attorney's authorized representative.

(2) "Attorney" includes an associate [member] **licensee** of the Oregon State Bar practicing law within the [member's] **licensee's** approved scope of practice.

(3) "Child" has the meaning given that term in ORS 110.503.

(4) "Child support rights" means the right to establish or enforce an obligation imposed or imposable by law to provide support, including but not limited to medical support as defined in ORS 25.321 and an unsatisfied obligation to provide support.

(5) "Department" means the Department of Justice.

(6) "Disposable income" means that part of the income of an individual remaining after the deduction from the income of any amounts required to be withheld by law except laws enforcing spousal or child support and any amounts withheld to pay medical or dental insurance premiums.

(7) "Employer" means any entity or individual who engages an individual to perform work or services for which compensation is given in periodic payments or otherwise.

(8) "Income" is any monetary obligation in excess of \$4.99 after the fee described in ORS 25.414 (6) has been deducted that is in the possession of a third party owed to a person and includes but is not limited to:

(a) Compensation paid or payable for personal services whether denominated as wages, salary, commission, bonus or otherwise;

(b) Periodic payments pursuant to a pension or retirement program;

(c) Cash dividends arising from stocks, bonds or mutual funds;

(d) Interest payments;

(e) Periodic payments from a trust account;

(f) Any program or contract to provide substitute wages during times of unemployment or disability;

(g) Any payment pursuant to ORS chapter 657; or

(h) Amounts payable to independent contractors.

(9) "Obligee" has the meaning given that term in ORS 110.503.

(10) "Obligor" has the meaning given that term in ORS 110.503.

(11) "Order to withhold" means an order or other legal process that requires a withholder to withhold support from the income of an obligor.

(12) "Public assistance" has the meaning given that term in ORS 25.501.

(13) "Withholder" means any person who disburses income and includes but is not limited to an employer, conservator, trustee or insurer of the obligor.

SECTION 70. ORS 40.090 is amended to read:

40.090. Law judicially noticed is defined as:

(1) The decisional, constitutional and public statutory law of Oregon, the United States, any federally recognized American Indian tribal government and any state, territory or other jurisdiction of the United States.

(2) Public and private official acts of the legislative, executive and judicial departments of this state, the United States, any federally recognized American Indian tribal government and any other state, territory or other jurisdiction of the United States.

(3) Rules of professional conduct for [*members*] **licensees** of the Oregon State Bar.

(4) Regulations, ordinances and similar legislative enactments issued by or under the authority of the United States, any federally recognized American Indian tribal government or any state, territory or possession of the United States.

(5) Rules of court of any court of this state or any court of record of the United States, of any federally recognized American Indian tribal government or of any state, territory or other jurisdiction of the United States.

(6) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(7) An ordinance, comprehensive plan or enactment of any county or incorporated city in this state, or a right derived therefrom. As used in this subsection, “comprehensive plan” has the meaning given that term by ORS 197.015.

SECTION 71. ORS 45.135 is amended to read:

45.135. (1) A deposition in a civil action may not be stenographically reported by:

- (a) A party in the action;
- (b) A person with a financial interest in the outcome of the action;
- (c) An attorney for a party in the action;
- (d) An attorney for a person with a financial interest in the outcome of the action;
- (e) An employee of a party in the action;
- (f) An employee of an attorney for a party in the action;
- (g) An employee of a person with a financial interest in the outcome of the action;
- (h) An employee of an attorney for a person with a financial interest in the outcome of the action; or

(i) A person related, by affinity or consanguinity within the third degree, to a party in the action or to a person with a financial interest in the outcome of the action.

(2) Any deposition recorded or reported by a person in violation of this section may not be introduced in evidence or used for any other purpose in a civil action.

(3) As used in this section, “attorney” includes an associate [*member*] **licensee** of the Oregon State Bar practicing law in the [*member’s*] **licensee’s** approved scope of practice.

SECTION 72. ORS 51.020 is amended to read:

51.020. (1) The county court or board of county commissioners of every county may set off and establish, or modify the boundaries of, justice of the peace districts within the county. No more than six justice of the peace districts shall be set off or established or permitted to remain in existence within any county. Except in the counties of Baker, Crook, Gilliam, Grant, Harney, Morrow, Sherman, Tillamook and Wheeler, a justice of the peace district may not include any portion of the city that is the county seat for the county or any portion of a city in which a circuit court regularly holds court. In the counties of Baker, Gilliam, Grant, Harney, Morrow, Sherman, Tillamook and Wheeler, a justice of the peace district in existence on January 15, 1998, may include any portion of the city that is the county seat for the county, or any portion of a city in which a circuit court regularly holds court, until such time as the justice court ceases to provide judicial services within the county seat or city. If the justice court ceases to provide judicial services within the county seat or city, the district that includes portions of the county seat or city shall cease to exist and may not thereafter be reestablished.

(2) At the time that the county court or board of county commissioners of a county sets off and establishes the boundaries of a justice of the peace district, the county court or board of county commissioners may require as a qualification for the office that a person serving as justice of the peace in the district be a [*member*] **licensee** of the Oregon State Bar.

(3) The prohibition of subsection (1) of this section on a justice of the peace district that includes any portion of the city that is the county seat for the county, or any portion of a city in

which a circuit court regularly holds court, does not prevent a justice of the peace from conducting an arraignment for a person in custody in the city that is the county seat for the county, or in a city in which a circuit court regularly holds court, if the accusatory instrument for the offense was filed in the justice court and the offense was committed within the boundaries of the justice of the peace district.

SECTION 73. ORS 51.025 is amended to read:

51.025. (1) Except as provided in subsection (7) of this section, any justice court may become a court of record by:

(a) The passage of an ordinance by the governing body of the county in which the court is located; and

(b) The entry of an order by the Supreme Court acknowledging the filing of the declaration required under subsection (2) of this section.

(2) Before a justice court may become a court of record, the governing body of the county in which the court is located must file a declaration with the Supreme Court that includes:

(a) A statement that the justice court satisfies the requirements of this section for becoming a court of record;

(b) The address and telephone number of the clerk of the justice court; and

(c) The date on which the justice court will commence operations as a court of record.

(3) The Supreme Court may not charge a fee for filing a declaration under subsection (2) of this section. Not later than 30 days after a declaration is filed under subsection (2) of this section, the Supreme Court shall enter an order acknowledging the filing of the declaration and give notice of the order of acknowledgment to the county and the public.

(4) The county shall provide a court reporter or an audio recording device for each justice court made a court of record under this section.

(5) The appeal from a judgment entered in a justice court that becomes a court of record under this section shall be as provided in ORS chapters 19 and 138 for appeals from judgments of circuit courts.

(6) As a qualification for the office, the justice of the peace for any justice court that becomes a court of record must be a [member] **licensee** of the Oregon State Bar.

(7) A justice court may not become a court of record under the provisions of this section if the court is located within 50 driving miles of the circuit court for the county in which the justice court is located, measured by the shortest distance by public roads between the justice court and the circuit court.

SECTION 74. Section 4, chapter 682, Oregon Laws 1999, is amended to read:

Sec. 4. [Sections 1 (3) and 3 (3) of this 1999 Act] **ORS 51.025 (6) and 221.342 (6)** do not affect the term of office of any justice of the peace or municipal judge serving on the effective date of an ordinance passed for the purpose of making a justice court or municipal court a court of record. Any justice of the peace or municipal judge elected or appointed after the effective date of the ordinance must, as a qualification for the office, be a [member] **licensee** of the Oregon State Bar.

SECTION 75. ORS 51.240 is amended to read:

51.240. (1) As a qualification for the office:

(a) A justice of the peace must be a citizen of the United States and a resident of this state.

(b) A justice of the peace must be a resident of or have a principal office in the justice of the peace district in which the justice court is located. For purposes of this paragraph, a "principal office" is the primary location from which a person conducts the person's business or profession.

(c) A justice of the peace must have maintained the residence within this state required by paragraph (b) of this subsection for at least three years immediately prior to appointment or becoming a candidate for election to the office of justice of the peace.

(d) A justice of the peace must have maintained the residence or principal office required by paragraph (b) of this subsection for at least one year immediately prior to appointment or becoming a candidate for election to the office of justice of the peace.

(e) A justice of the peace must:

(A) Be a *[member]* **licensee** of the Oregon State Bar;

(B) Have completed a course on courts of special jurisdiction offered by the National Judicial College, or complete the course within 12 months after appointment or election to the office of justice of the peace; or

(C) Have completed, or complete within 12 months after appointment or election to the office of justice of the peace, a course that is equivalent to the course described in subparagraph (B) of this paragraph, proposed by the justice of the peace and approved by the Chief Justice of the Supreme Court.

(2) If exigent circumstances prevent a justice of the peace from completing the course required under subsection (1)(e)(B) of this section within 12 months after appointment or election to the office of justice of the peace, the presiding judge of the judicial district in which the justice court is located may grant the justice of the peace one extension of time to complete the course. The extension may not exceed 12 months. The presiding judge may require the justice of the peace to complete additional educational requirements during an extension granted under this subsection.

(3) Notwithstanding subsection (1)(e) of this section, a justice of the peace in a justice court that is a court of record under ORS 51.025 must be a *[member]* **licensee** of the Oregon State Bar.

SECTION 76. ORS 51.245 is amended to read:

51.245. (1) Each justice of the peace who is not a *[member]* **licensee** of the Oregon State Bar shall attend or participate in a minimum of 30 hours of educational programs every two calendar years. The programs shall be those conducted and supervised or approved by the Chief Justice of the Supreme Court or designee.

(2) Each justice of the peace who is not a *[member]* **licensee** of the Oregon State Bar shall submit a written annual report of the hours of educational programs referred to in subsection (1) of this section that are attended or participated in by the justice during each calendar year to the Oregon Justices of the Peace Association and shall submit a copy of that report to the governing body of the county in which the justice has been elected or appointed. The report and copy shall be submitted not later than March 1 of the year following the calendar year for which the report is applicable.

SECTION 77. ORS 86.713 is amended to read:

86.713. (1) The trustee of a trust deed under ORS 86.705 to 86.815:

(a) Is not required to comply with the provisions of ORS chapters 707 and 709.

(b) Must be:

(A) An attorney who is an active *[member]* **licensee** of the Oregon State Bar or a law practice that includes an attorney who is an active *[member]* **licensee** of the Oregon State Bar;

(B) A financial institution or trust company, as defined in ORS 706.008, that is authorized to do business under the laws of Oregon or the United States;

(C) A title insurance company or a subsidiary, affiliate, insurance producer or branch of the title insurance company that is authorized to insure title to real property in this state;

(D) The United States or any agency of the United States; or

(E) An escrow agent that is licensed under ORS 696.505 to 696.590.

(c) Shall obtain from the Secretary of State a certificate of authority to transact business in this state as a foreign business entity, if the trustee is a person described in paragraph (b)(B) or (C) of this subsection, unless the trustee has registered with or obtained a certificate of authority from the Director of the Department of Consumer and Business Services.

(2) A law practice that, or an attorney who, is a trustee under subsection (1)(b)(A) of this section may represent the beneficiary in addition to performing the duties of trustee.

(3) At any time after a trust deed is executed, the beneficiary may appoint in writing another qualified trustee. If the appointment of the successor trustee is recorded in the mortgage records of the county or counties in which the trust deed is recorded, the successor trustee has the powers of the original trustee.

(4) A trustee or successor trustee is a necessary and proper party to any proceeding to determine the validity of a trust deed, or to enjoin any private or judicial proceeding to foreclose a trust

deed, but a trustee or successor trustee is not a necessary or proper party to any proceeding to determine title to the property subject to the trust deed, or to any proceeding to impose, enforce or foreclose any other lien on the subject property.

(5) The provisions of ORS 86.705 to 86.815 do not impose a duty on the trustee or successor trustee to notify any person of any proceeding with respect to the person, except a proceeding that the trustee or successor trustee initiates.

(6) A trustee or the attorney for the trustee or any agent that the trustee or the attorney designates may announce and accept a bid from the beneficiary whether or not the beneficiary is present at the sale.

(7) The trustee or successor trustee does not have a fiduciary duty or fiduciary obligation to the grantor or other persons that have an interest in the property subject to the trust deed. The trustee or successor trustee is not relieved of the duty to reconvey the property that is subject to the trust deed to the grantor when the beneficiary requests a reconveyance.

(8) If a law practice is the trustee under subsection (1)(b)(A) of this section, an attorney who is an active [member] **licensee** of the Oregon State Bar and is a shareholder, partner, member or employee of the law practice shall sign on the trustee's behalf any document that is permitted or required to be signed under ORS 86.705 to 86.815. The attorney who signs the document shall make evident in the document the attorney's name and Oregon State Bar number and shall state in the document that the trustee has authorized the attorney to sign the document on the trustee's behalf.

(9) If an attorney is the trustee under subsection (1)(b)(A) of this section, another attorney who is an active [member] **licensee** of the Oregon State Bar and is a shareholder, partner, member or employee of the law practice in which the attorney practices law may sign on the trustee's behalf any document that is permitted or required to be signed under ORS 86.705 to 86.815. The attorney who signs the document shall make evident in the document the attorney's name and Oregon State Bar number and shall state in the document that the trustee has authorized the attorney to sign the document on the trustee's behalf.

SECTION 78. ORS 86.782 is amended to read:

86.782. (1)(a) A trustee shall hold a trustee's sale on the date and at the time and place designated in the notice of sale given under ORS 86.764. The designated time of the trustee's sale must be after 9 a.m. and before 4 p.m., based on the standard of time set forth in ORS 187.110, and the designated place of the trustee's sale must be in the county or one of the counties in which the property is situated. Except as provided in paragraph (b) of this subsection, the trustee may sell the property in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash. Any person, including the beneficiary under the trust deed, but excluding the trustee, may bid at the trustee's sale. An attorney for the trustee, or an agent that the trustee or the attorney designates, may conduct the sale and act in the sale as the trustee's auctioneer.

(b) If the trustee sells property upon which a single residential unit that is subject to an affordable housing covenant is situated, the eligible covenant holder may purchase the property from the trustee at the trustee's sale for cash or cash equivalent in an amount that is the lesser of:

(A) The sum of the amounts payable under ORS 86.794 (1) and (2); or

(B) The highest bid received for the property other than a bid from the eligible covenant holder.

(c)(A) Except as provided in subparagraph (B) of this paragraph, if an eligible covenant holder purchases the property in accordance with paragraph (b) of this subsection, the sale forecloses and terminates all other interests in the property as provided in ORS 86.797 (1).

(B) If an interest in the property exists that is prior to the eligible covenant holder's interest, other than the interest set forth in the trust deed that was the subject of the foreclosure proceeding under ORS 86.752, notwithstanding the provisions of ORS 86.797 (1) the sale does not foreclose and terminate the prior interest and the eligible covenant holder's title to the property is subject to the prior interest.

(2)(a) The trustee or the attorney for the trustee, or an agent that the trustee or the attorney designates, may postpone the sale for one or more periods that total not more than 180 days from the original sale date, giving notice of each postponement by public proclamation made at the time

and place set for sale. The trustee, the attorney or an agent that the trustee or the attorney designates may make the proclamation.

(b) If a person postpones the sale date as provided in paragraph (a) of this subsection, the trustee, in the manner provided for the notice of sale under ORS 86.764 (1), shall provide written notice of the new time, date and place for the sale to the grantor and to any person to whom notice of the sale was given under ORS 86.771. The notice must be given at least 15 days before the new sale date. The person may postpone the sale once, for not more than two calendar days, without giving notice as provided in this paragraph. The person may not postpone the sale for more than two calendar days or more than once without giving notice as provided in this paragraph.

(3) The purchaser shall pay at the time of sale the price bid or the price determined in accordance with subsection (1)(b) of this section, and, within 10 days following payment, the trustee shall execute and deliver the trustee's deed to the purchaser.

(4)(a) Within 10 calendar days after the date of the trustee's sale, the trustee may rescind the trustee's sale and void the trustee's deed only if:

(A) The trustee asserts that during the trustee's sale a bona fide error occurred in:

(i) Setting, advertising or otherwise specifying the opening bid amount for the property that is the subject of the trustee's sale;

(ii) Providing a correct legal description of the property that is the subject of the trustee's sale; or

(iii) Complying with a requirement or procedure that is imposed by law;

(B) The grantor and the beneficiary agreed to a foreclosure avoidance measure, as defined in ORS 86.707, that would postpone or discontinue the trustee's sale; or

(C) The beneficiary accepted funds to reinstate the trust deed and obligation in accordance with ORS 86.778, even if the beneficiary did not have a legal duty to do so.

(b) Within 10 calendar days after the date of the trustee's sale that the trustee rescinded under paragraph (a) of this subsection, the trustee shall provide notice of the rescission of the trustee's sale to any person to whom notice of the sale was given. The trustee shall mail or serve notice of the rescission in the manner provided for serving or mailing the notice of sale under ORS 86.764 (1). The notice of rescission must:

(A) Display the date on which the trustee mailed the notice, served the notice or delivered the notice for service; and

(B) State that, and explain why, the trustee rescinded the trustee's sale and voided the trustee's deed.

(c) Not later than three calendar days after the date displayed on the rescission notice described in paragraph (b) of this subsection, the trustee shall refund to the purchaser the amount the purchaser paid for the property that is the subject of the rescission notice.

(d) If the trustee rescinded a trustee's sale and voided a trustee's deed in accordance with this subsection, the trustee, not later than 21 days after the date of the trustee's sale that resulted in the rescission, shall present for recording an affidavit that states that the trustee provided the notice of rescission described in paragraph (b) of this subsection. The affidavit must identify the trust deed that was subject to the rescinded trustee's sale and the voided trustee's deed.

(e) The trustee's deed conveys to the purchaser the interest in the property that the grantor had, or had the power to convey, at the time the grantor executed the trust deed, together with any interest the grantor or the grantor's successors in interest acquire after the execution of the trust deed.

(5)(a) If property purchased at the trustee's sale includes one or more dwelling units that are subject to ORS chapter 90, the purchaser must provide written notice of the change in ownership to the occupants of each unit within 30 days after the date of sale and before or concurrently with service of a written termination notice authorized by subsection (6)(c)(B) of this section.

(b) The notice required by this subsection must:

(A) Explain that the dwelling unit has been sold at a foreclosure sale and that the purchaser at the foreclosure sale is the new owner.

- (B) Include the date on which the foreclosure sale took place.
- (C) Include the name, contact address and contact telephone number of the purchaser or the purchaser's representative.
- (D) Provide information about the rights of bona fide residential tenants as provided in subsections (6)(c) and (e) and (9)(a) of this section.
- (E) Include contact information for the Oregon State Bar and a person or organization that provides legal help to individuals at no charge to the individual.
- (c) The notice must be served by one or more of the following methods:
- (A) Personal delivery to the tenant.
- (B) First class mail to the tenant at the dwelling unit.
- (C) First class mail to the tenant at the dwelling unit and attachment of a second notice copy. The second notice copy must be attached in a secure manner to the main entrance to the portion of the premises in the possession of the tenant.
- (D) If the purchaser does not know the names of the tenants, the notice may be addressed to "occupants."
- (d) A notice that contains the information required under paragraph (b)(B) and (C) of this subsection meets the requirements of paragraph (b) of this subsection if the notice is in substantially the following form:

**NOTICE TO RESIDENTIAL TENANTS OF
CHANGE IN OWNERSHIP**

The property in which you are living has gone through foreclosure and was sold to a new owner on _____ (date). The contact information for the new owner or the owner's representative is _____ (name, address, telephone number).

IF YOU ARE A BONA FIDE TENANT RENTING THIS PROPERTY AS A RESIDENTIAL DWELLING, YOU HAVE THE RIGHT TO CONTINUE LIVING IN THIS PROPERTY AFTER THE FORECLOSURE SALE FOR:

- 60 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A FIXED TERM LEASE; OR
- AT LEAST 30 DAYS FROM THE DATE YOU ARE GIVEN A WRITTEN TERMINATION NOTICE, IF YOU HAVE A MONTH-TO-MONTH OR WEEK-TO-WEEK RENTAL AGREEMENT.

If the new owner wants to move in and use this property as a primary residence, the new owner can give you written notice and require you to move out after 30 days, even though you have a fixed term lease with more than 30 days left.

You must be provided with at least 30 days' written notice after the foreclosure sale before you can be required to move.

A bona fide tenant is a residential tenant who is not the borrower (property owner), or a child, spouse or parent of the borrower, and whose rental agreement:

- Is the result of an arm's-length transaction;
- Requires the payment of rent that is not substantially less than fair market rent for the property, unless the rent is reduced or subsidized due to a federal, state or local subsidy; and
- Was entered into prior to the date of the foreclosure sale.

IMPORTANT:

YOU SHOULD CONTACT THE NEW OWNER OR THE OWNER'S REPRESENTATIVE AT THE ADDRESS LISTED ON THIS NOTICE AS SOON AS POSSIBLE TO LET THE NEW OWNER KNOW IF YOU ARE A BONA FIDE TENANT. YOU SHOULD PROVIDE WRITTEN EVIDENCE OF THE EXISTENCE OF YOUR RENTAL AGREEMENT, ESPECIALLY IF YOU HAVE A FIXED TERM RENTAL AGREEMENT OR LEASE WITH MORE THAN 30 DAYS LEFT. Written evidence of your rental agreement can be a copy of your lease or rental agreement, or other documentation

of the existence of your rental agreement. Keep your original documents and a record of any information you give to the new owner.

**YOUR TENANCY
BETWEEN NOW
AND THE MOVE-OUT DATE**

The new owner may be willing to allow you to stay as a tenant instead of requiring you to move out after 30 or 60 days. You should contact the new owner if you would like to stay. If the new owner accepts rent from you, signs a new residential rental agreement with you or does not notify you in writing within 30 days after the date of the foreclosure sale that you must move out, the new owner becomes your new landlord and must maintain the property. Otherwise:

- You do not owe rent;
- The new owner is not your landlord and is not responsible for maintaining the property; and
- You must move out by the date the new owner specifies in a notice to you.

The new owner may offer to pay your moving expenses and any other costs or amounts you and the new owner agree on in exchange for your agreement to leave the premises in less than 30 or 60 days. You should speak with a lawyer to fully understand your rights before making any decisions regarding your tenancy.

IT IS UNLAWFUL FOR ANY PERSON TO TRY TO FORCE YOU TO LEAVE YOUR DWELLING UNIT WITHOUT FIRST GIVING YOU WRITTEN NOTICE AND GOING TO COURT TO EVICT YOU. FOR MORE INFORMATION ABOUT YOUR RIGHTS, YOU SHOULD CONSULT A LAWYER. If you believe you need legal assistance, contact the Oregon State Bar and ask for the lawyer referral service. Contact information for the Oregon State Bar is included with this notice. If you do not have enough money to pay a lawyer and are otherwise eligible, you may be able to receive legal assistance for free. Information about whom to contact for free legal assistance is included with this notice.

(6)(a) Except as provided in paragraph (b) or (c) of this subsection, the purchaser at the trustee's sale is entitled to possession of the property on the 10th day after the sale. A person that remains in possession after the 10th day under any interest, except an interest prior to the trust deed, or an interest the grantor or a successor of the grantor created voluntarily, is a tenant at sufferance. The purchaser may obtain possession of the property from a tenant at sufferance by following the procedures set forth in ORS 105.100 to 105.168 or other applicable judicial procedure.

(b) Except as provided in paragraph (c) of this subsection, at any time after the trustee's sale the purchaser may follow the procedures set forth in ORS 105.100 to 105.168 or other applicable judicial procedure to obtain possession of the property from a person that holds possession under an interest that the grantor or a successor of the grantor created voluntarily if, not earlier than 30 days before the date first set for the sale, the person was served with not less than 30 days' written notice of the requirement to surrender or deliver possession of the property.

(c) If the property purchased at the trustee's sale includes a dwelling unit that is subject to ORS chapter 90 and an individual occupies the unit under a bona fide tenancy, the purchaser may obtain possession by following the procedures set forth in ORS 105.100 to 105.168 and by using the complaint form provided in ORS 105.124 or 105.126:

(A) At least 60 days after service of a written termination notice, if the bona fide tenancy is a fixed term tenancy as defined in ORS 90.100; or

(B) At least 30 days after service of a written termination notice if the bona fide tenancy is:

(i) A fixed term tenancy and the purchaser intends to occupy, as the purchaser's primary residence, the dwelling unit that is subject to the fixed term tenancy; or

(ii) A month-to-month tenancy or week-to-week tenancy, as those terms are defined in ORS 90.100.

(d) If a purchaser gives a 30-day written termination notice pursuant to paragraph (c) of this subsection, the purchaser may include in the notice a request that a tenant with a fixed term

tenancy provide written evidence of the existence of the tenancy to the purchaser at an address described in the notice. Written evidence includes a copy of the rental agreement or another document that shows the existence of the fixed term tenancy. The tenant's failure to provide the requested written evidence before the purchaser files an action for possession based on a 30-day notice:

(A) Does not prevent the tenant from asserting the existence of the fixed term tenancy as a defense to the action.

(B) Prevents the tenant from recovering prevailing party attorney fees or costs and disbursements pursuant to subsection (11)(b) of this section. The 30-day notice must describe the provisions of this paragraph.

(e) A purchaser may not commence a proceeding under ORS 105.100 to 105.168 that is authorized under this subsection before the later of:

(A) The 10th day after the trustee's sale;

(B) The date specified in a written notice of the requirement to surrender or deliver possession of the property if the notice is required by and is given to the person in accordance with paragraph (b) of this subsection;

(C) The date specified in a written notice of the purchaser's intent to terminate a tenancy if the notice is required by and is given to the person in accordance with paragraph (c) of this subsection; or

(D) The date on which the term of a fixed term tenancy ends, if the property is a dwelling unit and the purchaser has not terminated the tenancy in accordance with paragraph (c) of this subsection.

(f) A purchaser that seeks to obtain possession pursuant to ORS 105.100 to 105.168 must attach proof of service of a written termination notice required by paragraph (c) of this subsection to the pleadings.

(g) In an action to obtain possession, violation of the procedures required by subsection (5) of this section or paragraph (c) of this subsection is a defense for a bona fide tenant seeking to retain possession.

(h) As used in this subsection, "bona fide tenancy" means tenancy of a dwelling unit that is subject to ORS chapter 90 that results from an arm's-length transaction that occurred before the date of a foreclosure sale in which:

(A) The mortgagor or the child, spouse or parent of the mortgagor under the contract is not the tenant; and

(B) The rent required is not substantially less than fair market rent for the dwelling unit, unless the rent is reduced or subsidized due to a federal, state or local subsidy.

(7) A purchaser shall serve a notice under subsection (6) of this section by one or more of the following methods:

(a) Personal delivery to the tenant.

(b) First class mail to the tenant at the dwelling unit.

(c) First class mail to the tenant at the dwelling unit and attachment of a second notice copy. The second notice copy must be attached in a secure manner to the main entrance to the portion of the premises in the possession of the tenant.

(8) If the notice under subsection (6) of this section is served by mail pursuant to subsection (7)(b) of this section, the minimum period for compliance must be extended by three days and the notice must include the extension in the period stated in the notice.

(9)(a) Notwithstanding the provisions of subsection (6)(c) of this section and except as provided in paragraph (b) of this subsection, the purchaser is not a landlord subject to the provisions of ORS chapter 90 unless the purchaser:

(A) Accepts rent from the individual who possesses the property under a tenancy described in subsection (6)(c) of this section;

(B) Enters into a new rental agreement with the individual who possesses the property under a tenancy described in subsection (6)(c) of this section; or

(C) Fails to terminate the tenancy as provided in subsection (6)(c) of this section within 30 days after the date of the sale.

(b) The purchaser may act as a landlord for purposes of terminating a tenancy in accordance with the provisions of ORS 90.396.

(c) The purchaser is subject to the provisions of ORS 90.322, 90.375, 105.165, 659A.421 and 659A.425. The application of ORS 90.375 to a purchaser that does not become a landlord does not impose an affirmative duty to pay for or provide services. For the purpose of damages pursuant to this paragraph, "rent" refers to the amount the tenant pays to the landlord for the right to occupy the unit before the foreclosure.

(10)(a) Except as provided in paragraph (b) of this subsection, the purchaser is not liable to the individual who possesses the property under a tenancy described in subsection (6)(c) of this section for:

(A) Damage to the property or diminution in rental value; or

(B) Returning a security deposit.

(b) A purchaser that is a landlord under the provisions of subsection (9)(a) of this section is liable to the individual who possesses the property under a tenancy described in subsection (6)(c) of this section for:

(A) Damage to the property or diminution in rental value that occurs after the date of the trustee's sale; or

(B) Returning a security deposit the individual pays after the date of the trustee's sale.

(11)(a) Except as provided in paragraph (b) of this subsection and notwithstanding an agreement to the contrary, in an action or defense arising pursuant to subsection (6)(c), (d), (f) or (g), (7) or (9)(c) of this section, reasonable attorney fees at trial and on appeal may be awarded to the prevailing party together with costs and disbursements.

(b) If a tenant asserts a successful defense to an action for possession pursuant to subsection (6)(c), (d), (f) or (g) of this section, the tenant is not entitled to prevailing party fees, attorney fees or costs and disbursements if the purchaser:

(A) Did not know, and did not have reasonable cause to know, of the existence of a fixed term tenancy when commencing the action for possession; and

(B) Promptly dismissed the action upon becoming aware of the existence of a fixed term tenancy.

(c) As used in this subsection, "prevailing party" means the party in whose favor final judgment is rendered.

(12)(a) Notwithstanding subsection (2)(a) of this section, except when a beneficiary has participated in obtaining a stay, foreclosure proceedings that are stayed by order of the court, by proceedings in bankruptcy or for any other lawful reason shall, after release from the stay, continue as if uninterrupted, if within 30 days after release the trustee sends amended notice of sale by registered or certified mail to the persons listed in ORS 86.764 and 86.774 (1).

(b) In addition to the notice required under paragraph (a) of this subsection, the trustee shall send amended notice of sale:

(A) By registered or certified mail to:

(i) The address provided by each person who was present at the time and place set for the sale that was stayed; and

(ii) The address provided by each [member] **licensee** of the Oregon State Bar who by registered or certified mail requests the amended notice of sale and includes with the request the notice of default or an identification number for the trustee's sale that would assist the trustee in identifying the property subject to the trustee's sale and a self-addressed, stamped envelope measuring at least 8.5 by 11 inches in size; or

(B) By posting a true copy or a link to a true copy of the amended notice of sale on the trustee's Internet website.

(c) The amended notice of sale must:

(A) Be given at least 15 days before the amended date of sale;

(B) Set an amended date of sale that may be the same as the original sale date, or date to which the sale was postponed, provided the requirements of this paragraph and ORS 86.764 and 86.774 are satisfied;

(C) Specify the time and place for sale;

(D) Conform to the requirements of ORS 86.771; and

(E) State that the original sale proceedings were stayed and the date the stay terminated.

(d) If the publication of the notice of sale was not completed before the date the foreclosure proceedings were stayed by order of the court, by proceedings in bankruptcy or for any other lawful reason, after release from the stay, in addition to complying with the provisions of paragraphs (b) and (c) of this subsection, the trustee shall complete the publication by publishing an amended notice of sale that states that the notice has been amended following release from the stay and that contains the amended date of sale. The amended notice must be published in a newspaper of general circulation in each of the counties in which the property is situated once a week for four successive weeks, except that the required number of publications must be reduced by the number of publications that were completed before the effective date of the stay. The last publication must be made more than 20 days before the date the trustee conducts the sale.

(e) If a portion of the defaults specified in the original notice of default or in the original notice of sale was cured during the time the foreclosure proceedings were stayed, or if additional defaults have occurred during that time, the trustee shall describe in the amended notice of sale only those defaults that existed on the date on which the stay was terminated.

(f) After a release from a stay of proceedings, the trustee or the attorney for the trustee, or an agent that the trustee or the attorney designates, may postpone a sale for one or more periods that total not more than the greater of 60 days or the portion of the 180-day period allowed for postponement under subsection (2)(a) of this section that remained on the day before the stay began. A postponement under this paragraph must comply with the procedural and notice requirements specified in subsection (2) of this section.

SECTION 79. ORS 87.430 is amended to read:

87.430. An attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law has a lien for compensation whether specially agreed upon or implied, upon all papers, personal property and money of the client in the possession of the attorney or [member] **licensee** for services rendered to the client. The attorney or [member] **licensee** may retain the papers, personal property and money until the lien created by this section, and the claim based thereon, is satisfied, and the attorney or [member] **licensee** may apply the money retained to the satisfaction of the lien and claim.

SECTION 80. ORS 87.435 is amended to read:

87.435. (1) The owner of papers or personal property subject to a lien created by ORS 87.430, or any other interested person, may file with the recording officer of the county in which the attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law has the attorney's or [member's] **licensee's** principal office a bond executed by a corporation authorized to issue surety bonds in the State of Oregon to the effect that the owner of the papers and personal property against which the lien is claimed shall pay the amount of the claim and all costs which are awarded against the papers and personal property on account of the lien. The bond shall be in an amount not less than 150 percent of the amount claimed under the lien, and must be filed prior to the commencement of a foreclosure proceeding by the attorney or [member] **licensee**.

(2)(a) In lieu of the surety bond provided for in subsection (1) of this section, a person may deposit with the treasurer of the county in which the attorney or [member] **licensee** has the attorney's or [member's] **licensee's** principal office an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, or a sum of money or its equivalent equal in value to 150 percent of the amount claimed under the lien.

(b) When a person deposits money or an irrevocable letter of credit with the treasurer of a county under this subsection, the person shall file with the recording officer of the same county an affidavit stating that the deposit was made.

(3) When a bond is filed under subsection (1) of this section or money or an irrevocable letter of credit deposited and an affidavit filed under subsection (2) of this section, the recording officer shall issue to the owner or other person a certificate stating that the bond, irrevocable letter of credit or money is substituted for the chattel and that the lien on the chattel is discharged.

(4) When a bond is filed under subsection (1) of this section, or money or an irrevocable letter of credit is deposited under subsection (2) of this section, the owner or other person filing the bond or depositing the money shall promptly send a copy of the certificate received from the recording officer under subsection (3) of this section to the attorney or [member] **licensee** by registered or certified mail.

(5) If the attorney or [member] **licensee** establishes the validity of the lien claim by a suit to enforce it under ORS chapter 88, the attorney or [member] **licensee** is entitled to judgment against the sureties upon the bond, against the irrevocable letter of credit issuer or against the deposited money.

SECTION 81. ORS 87.440 is amended to read:

87.440. If an attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law considers the bond filed with a recording officer or the irrevocable letter of credit deposited with the treasurer of a county inadequate to protect the claim of the attorney or [member] **licensee** for lien for some reason other than the amount of the bond or irrevocable letter of credit, the attorney or [member] **licensee** shall, within 10 days of receipt of the notice of filing, petition the court in which the suit to foreclose the lien may be brought for a determination of the adequacy of the bond or irrevocable letter of credit. The attorney or [member] **licensee** shall state in detail the reasons for the inadequacy. If the court determines that the bond is inadequate for one or more of the reasons stated by the attorney or [member] **licensee**, the court shall order such action as shall make the bond or irrevocable letter of credit adequate to protect the claim for lien.

SECTION 82. ORS 87.445 is amended to read:

87.445. An attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law has a lien upon actions, suits and proceedings after the commencement thereof, and judgments, orders and awards entered therein in the client's favor and the proceeds thereof to the extent of fees and compensation specially agreed upon with the client, or if there is no agreement, for the reasonable value of the services of the attorney or [member] **licensee**.

SECTION 83. ORS 87.450 is amended to read:

87.450. (1) When an attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law claims a lien under ORS 87.445, if the judgment is for a sum of money only, the attorney or [member] **licensee** must file a notice of claim of lien with the clerk of the court that entered the judgment within three years after the judgment is entered. The clerk shall enter the notice in the register of the court and in the judgment lien record maintained by the court administrator under ORS 18.075.

(2) When an attorney or [member] **licensee** files a notice of claim of lien under subsection (1) of this section, the attorney or [member] **licensee** shall send forthwith a copy of the notice to the client by registered or certified mail sent to the client at the last-known address of the client.

(3) A lien under ORS 87.445 on a judgment for a sum of money only remains a lien on the judgment until the judgment remedies for the judgment expire under ORS 18.180 to 18.190.

(4) For purposes of this section, a "judgment for a sum of money only" does not include a judgment or order for the payment of money for the support of any person under ORS 107.095, 107.105, 108.120, 109.155 or 419B.400.

SECTION 84. ORS 87.455 is amended to read:

87.455. (1) When an attorney or other [member] **licensee** of the Oregon State Bar licensed to practice law claims a lien under ORS 87.445, if the judgment is for the possession, award or transfer of personal property, the attorney or [member] **licensee** must file a notice of claim of lien not later than one year after entry of the judgment and disposition of any appeal of the judgment. The notice shall be filed with the recording officer of the county in which the judgment is rendered, with the recording officer of the county, if known, in which the personal property is located and with the

recording officer of the county, if known, in which the attorney's or [member's] **licensee's** client resides. The recording officer of a county shall record the notices filed under this section in a book called "index of liens upon chattels."

(2) Except as provided in subsection (3) of this section, a lien under ORS 87.445 on a judgment for the possession, award or transfer of personal property must be foreclosed in the manner provided in ORS chapter 88, not later than one year after the notice of claim of lien is filed under subsection (1) of this section.

(3) An attorney or [member] **licensee** and the client of the attorney or [member] **licensee** may, by an agreement in writing, extend the period of time within which a lien created by ORS 87.445 must be foreclosed to two years after the notice of claim of lien is filed. An agreement to extend a foreclosure period under this subsection shall contain the time and place of the filing of the notice of claim of lien by the attorney or [member] **licensee** and shall be filed with the recording officer with whom the notice of claim of lien was filed.

SECTION 85. ORS 90.100 is amended to read:

90.100. As used in this chapter, unless the context otherwise requires:

(1) "Accessory building or structure" means any portable, demountable or permanent structure, including but not limited to cabanas, ramadas, storage sheds, garages, awnings, carports, decks, steps, ramps, piers and pilings, that is:

(a) Owned and used solely by a tenant of a manufactured dwelling or floating home; or

(b) Provided pursuant to a written rental agreement for the sole use of and maintenance by a tenant of a manufactured dwelling or floating home.

(2) "Action" includes recoupment, counterclaim, setoff, suit in equity and any other proceeding in which rights are determined, including an action for possession.

(3) "Applicant screening charge" means any payment of money required by a landlord of an applicant prior to entering into a rental agreement with that applicant for a residential dwelling unit, the purpose of which is to pay the cost of processing an application for a rental agreement for a residential dwelling unit.

(4) "Attorney" includes an associate [member] **licensee** of the Oregon State Bar practicing law within the [member's] **licensee's** approved scope of practice.

(5) "Bias crime" has the meaning given that term in ORS 147.380.

(6) "Building and housing codes" includes any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any premises or dwelling unit.

(7) "Carbon monoxide alarm" has the meaning given that term in ORS 105.836.

(8) "Carbon monoxide source" has the meaning given that term in ORS 105.836.

(9) "Conduct" means the commission of an act or the failure to act.

(10) "DBH" means the diameter at breast height, which is measured as the width of a standing tree at four and one-half feet above the ground on the uphill side.

(11) "Dealer" means any person in the business of selling, leasing or distributing new or used manufactured dwellings or floating homes to persons who purchase or lease a manufactured dwelling or floating home for use as a residence.

(12) "Domestic violence" means:

(a) Abuse between family or household members, as those terms are defined in ORS 107.705; or

(b) Abuse, as defined in ORS 107.705, between partners in a dating relationship.

(13) "Drug and alcohol free housing" means a dwelling unit described in ORS 90.243.

(14) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit" regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself.

(15) "Essential service" means:

(a) For a tenancy not consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant and not otherwise subject to ORS 90.505 to 90.850:

(A) Heat, plumbing, hot and cold running water, gas, electricity, light fixtures, locks for exterior doors, latches for windows and any cooking appliance or refrigerator supplied or required to be supplied by the landlord; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.320, the lack or violation of which creates a serious threat to the tenant's health, safety or property or makes the dwelling unit unfit for occupancy.

(b) For a tenancy consisting of rental space for a manufactured dwelling, floating home or recreational vehicle owned by the tenant or that is otherwise subject to ORS 90.505 to 90.850:

(A) Sewage disposal, water supply, electrical supply and, if required by applicable law, any drainage system; and

(B) Any other service or habitability obligation imposed by the rental agreement or ORS 90.730, the lack or violation of which creates a serious threat to the tenant's health, safety or property or makes the rented space unfit for occupancy.

(16) "Facility" means a manufactured dwelling park or a marina.

(17) "Fee" means a nonrefundable payment of money.

(18) "First class mail" does not include certified or registered mail, or any other form of mail that may delay or hinder actual delivery of mail to the recipient.

(19) "Fixed term tenancy" means a tenancy that has a fixed term of existence, continuing to a specific ending date and terminating on that date without requiring further notice to effect the termination.

(20) "Floating home" has the meaning given that term in ORS 830.700. "Floating home" includes an accessory building or structure.

(21) "Good faith" means honesty in fact in the conduct of the transaction concerned.

(22) "Hazard tree" means a tree that:

(a) Is located on a rented space in a manufactured dwelling park;

(b) Measures at least eight inches DBH; and

(c) Is considered, by an arborist licensed as a landscape construction professional pursuant to ORS 671.560 and certified by the International Society of Arboriculture, to pose an unreasonable risk of causing serious physical harm or damage to individuals or property in the near future.

(23) "Hotel or motel" means "hotel" as that term is defined in ORS 699.005.

(24) "Informal dispute resolution" includes voluntary consultation between the landlord or landlord's agent and one or more tenants or voluntary mediation utilizing the services of a third party, but does not include mandatory mediation or arbitration.

(25) "Landlord" means the owner, lessor or sublessor of the dwelling unit or the building or premises of which it is a part. "Landlord" includes a person who is authorized by the owner, lessor or sublessor to manage the premises or to enter into a rental agreement.

(26) "Landlord's agent" means a person who has oral or written authority, either express or implied, to act for or on behalf of a landlord.

(27) "Last month's rent deposit" means a type of security deposit, however designated, the primary function of which is to secure the payment of rent for the last month of the tenancy.

(28) "Manufactured dwelling" means a residential trailer, a mobile home or a manufactured home as those terms are defined in ORS 446.003 or a prefabricated structure. "Manufactured dwelling" includes an accessory building or structure.

(29) "Manufactured dwelling park" means a place where four or more manufactured dwellings are located, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(30) "Marina" means a moorage of contiguous dwelling units that may be legally transferred as a single unit and are owned by one person where four or more floating homes are secured, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee.

(31) “Marina purchase association” means a group of three or more tenants who reside in a marina and have organized for the purpose of eventual purchase of the marina.

(32) “Month-to-month tenancy” means a tenancy that automatically renews and continues for successive monthly periods on the same terms and conditions originally agreed to, or as revised by the parties, until terminated by one or both of the parties.

(33) “Organization” includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(34) “Owner” includes a mortgagee in possession and means one or more persons, jointly or severally, in whom is vested:

(a) All or part of the legal title to property; or

(b) All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

(35) “Person” includes an individual or organization.

(36) “Prefabricated structure” means a structure that is substantially constructed or assembled using closed construction at an off-site location in compliance with the state building code and that is sited and occupied by the owner in compliance with local codes.

(37) “Premises” means:

(a) A dwelling unit and the structure of which it is a part and facilities and appurtenances therein;

(b) Grounds, areas and facilities held out for the use of tenants generally or the use of which is promised to the tenant; and

(c) A facility for manufactured dwellings or floating homes.

(38) “Prepaid rent” means any payment of money to the landlord for a rent obligation not yet due. In addition, “prepaid rent” means rent paid for a period extending beyond a termination date.

(39) “Recreational vehicle” has the meaning given that term in ORS 174.101.

(40) “Recreational vehicle park” has the meaning given that term in ORS 197.492.

(41)(a) “Rent” means any payment to be made to the landlord under the rental agreement, periodic or otherwise, in exchange for the right of a tenant and any permitted pet to occupy a dwelling unit to the exclusion of others and to use the premises.

(b) “Rent” does not include security deposits, fees or utility or service charges as described in ORS 90.315 (4) and 90.562.

(42) “Rental agreement” means all agreements, written or oral, and valid rules and regulations adopted under ORS 90.262 or 90.510 (6) embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises. “Rental agreement” includes a lease. A rental agreement is either a week-to-week tenancy, month-to-month tenancy or fixed term tenancy.

(43) “Roomer” means a person occupying a dwelling unit that does not include a toilet and either a bathtub or a shower and a refrigerator, stove and kitchen, all provided by the landlord, and where one or more of these facilities are used in common by occupants in the structure.

(44) “Screening or admission criteria” means a written statement of any factors a landlord considers in deciding whether to accept or reject an applicant and any qualifications required for acceptance. “Screening or admission criteria” includes, but is not limited to, the rental history, character references, public records, criminal records, credit reports, credit references and incomes or resources of the applicant.

(45) “Security deposit” means a refundable payment or deposit of money, however designated, the primary function of which is to secure the performance of a rental agreement or any part of a rental agreement. “Security deposit” does not include a fee.

(46) “Sexual assault” has the meaning given that term in ORS 147.450.

(47) “Squatter” means a person occupying a dwelling unit who is not so entitled under a rental agreement or who is not authorized by the tenant to occupy that dwelling unit. “Squatter” does not include a tenant who holds over as described in ORS 90.427 (11).

(48) “Stalking” means the behavior described in ORS 163.732.

(49) "Statement of policy" means the summary explanation of information and facility policies to be provided to prospective and existing tenants under ORS 90.510.

(50) "Surrender" means an agreement, express or implied, as described in ORS 90.148 between a landlord and tenant to terminate a rental agreement that gave the tenant the right to occupy a dwelling unit.

(51) "Tenant":

(a) Except as provided in paragraph (b) of this subsection:

(A) Means a person, including a roomer, entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, including a dwelling unit owned, operated or controlled by a public housing authority.

(B) Means a minor, as defined and provided for in ORS 109.697.

(b) For purposes of ORS 90.505 to 90.850, means only a person who owns and occupies as a residence a manufactured dwelling or a floating home in a facility and persons residing with that tenant under the terms of the rental agreement.

(c) Does not mean a guest or temporary occupant.

(52) "Transient lodging" means a room or a suite of rooms.

(53) "Transient occupancy" means occupancy in transient lodging that has all of the following characteristics:

(a) Occupancy is charged on a daily basis and is not collected more than six days in advance;

(b) The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy; and

(c) The period of occupancy does not exceed 30 days.

(54) "Vacation occupancy" means occupancy in a dwelling unit, not including transient occupancy in a hotel or motel, that:

(a) Has all of the following characteristics:

(A) The occupant rents the unit for vacation purposes only, not as a principal residence;

(B) The occupant has a principal residence other than at the unit; and

(C) The period of authorized occupancy does not exceed 45 days; or

(b) Is for the rental of a space in a recreational vehicle park on which a recreational vehicle owned by the occupant will be located and for which:

(A) The occupant rents the unit for vacation purposes only, not as a principal residence;

(B) The occupant has a principal residence other than at the space;

(C) The period of authorized occupancy does not exceed 90 days;

(D) The recreational vehicle is required to be removed from the park at the end of the occupancy period before a new occupancy may begin; and

(E) A written agreement is signed by the occupant that substantially states: "Your occupancy of this recreational vehicle park is a vacation occupancy and is NOT subject to the Oregon Residential Landlord and Tenant Act (ORS chapter 90)."

(55) "Victim" means:

(a) The person against whom an incident related to domestic violence, sexual assault, bias crime or stalking is perpetrated; or

(b) The parent or guardian of a minor household member against whom an incident related to domestic violence, sexual assault, bias crime or stalking is perpetrated, unless the parent or guardian is the perpetrator.

(56) "Week-to-week tenancy" means a tenancy that has all of the following characteristics:

(a) Occupancy is charged on a weekly basis and is payable no less frequently than every seven days;

(b) There is a written rental agreement that defines the landlord's and the tenant's rights and responsibilities under this chapter; and

(c) There are no fees or security deposits, although the landlord may require the payment of an applicant screening charge, as provided in ORS 90.295.

SECTION 86. ORS 94.881 is amended to read:

94.881. (1) Funds placed into escrow under ORS 94.873 shall be placed into an escrow account established solely for that purpose with one of the following acting as an escrow agent:

(a) An attorney who is a *[member]* **licensee** of the Oregon State Bar;

(b) An insured institution, as defined in ORS 706.008, that is authorized to accept deposits in this state;

(c) A trust company, as defined in ORS 706.008, that is authorized to transact trust business in this state; or

(d) An escrow agent licensed under ORS 696.505 to 696.590.

(2) In connection with sales of timeshares made outside of this state for the use of timeshare property located within this state, the escrow agent required under ORS 94.871 and 94.873 may be located in and the purchasers' funds, negotiable instruments, purchase money contracts and credit card authorizations may be held by the out-of-state escrow agent, if the law of the state in which the sales are made requires impoundment in that state and the out-of-state escrow agent is approved by the Real Estate Commissioner.

SECTION 87. ORS 105.100 is amended to read:

105.100. As used in ORS 105.100 to 105.168, "attorney" includes an associate *[member]* **licensee** of the Oregon State Bar practicing law in the *[member's]* **licensee's** approved scope of practice.

SECTION 88. ORS 127.532 is amended to read:

127.532. (1) The Advance Directive Advisory Committee is established within the division of the Oregon Health Authority that is charged with performing the public health functions of the state.

(2)(a) The committee consists of 13 members.

(b) One member shall be the Long Term Care Ombudsman or the designee of the Long Term Care Ombudsman.

(c) The other 12 members shall be appointed by the Governor as follows:

(A) One member who represents primary health care providers.

(B) One member who represents hospitals.

(C) One member who is a clinical ethicist affiliated with a health care facility located in this state, or affiliated with a health care organization offering health care services in this state.

(D) Two members who are health care providers with expertise in palliative or hospice care, one of whom is not employed by a hospital or other health care facility, a health care organization or an insurer.

(E) One member who represents individuals with disabilities.

(F) One member who represents consumers of health care services.

(G) One member who represents the long term care community.

(H) One member with expertise advising or assisting consumers with end-of-life decisions.

(I) One member from among *[members]* **licensees** proposed by the Oregon State Bar who has extensive experience in elder law and advising individuals on how to execute an advance directive.

(J) One member from among *[members]* **licensees** proposed by the Oregon State Bar who has extensive experience in estate planning and advising individuals on how to make end-of-life decisions.

(K) One member from among *[members]* **licensees** proposed by the Oregon State Bar who has extensive experience in health law.

(3) The term of office of each member of the committee is four years, but a member serves at the pleasure of the appointing authority. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(4) A majority of the members of the committee constitutes a quorum for the transaction of business.

(5) Official action by the committee requires the approval of a majority of the members of the committee.

(6) The committee shall elect one of its members to serve as chairperson.

(7) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee, provided that the committee meets at least twice a year.

(8) The committee may adopt rules necessary for the operation of the committee.

(9) Members of the committee are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds appropriated to the Oregon Health Authority for purposes of the committee.

SECTION 89. ORS 9.715 is amended to read:

9.715. (1) When the Oregon State Bar or an attorney determines that one of the circumstances listed in ORS 9.710 exists, the bar or the attorney may petition the court ex parte to take immediate jurisdiction over the affected [*member's*] **licensee's** law practice as provided in ORS 9.705 to 9.757.

(2) When an attorney files a petition under subsection (1) of this section, the attorney shall provide notice to the Oregon State Bar.

SECTION 90. ORS 9.720 is amended to read:

9.720. If the court finds that it has jurisdiction and finds that the assumption of such jurisdiction is necessary in order to protect the interest of the clients of the affected [*member*] **licensee** or to protect the public interest, the court may, by appropriate order, immediately take jurisdiction over the law practice of the affected [*member*] **licensee** to the extent the court determines is necessary. The exercise of jurisdiction may extend only to the affected [*member's*] **licensee's** lawyer trust account or may include all legal files, clients' trust funds, clients' property and all books, records, funds and property used in the law practice of the affected [*member*] **licensee**.

SECTION 91. ORS 87.460 is amended to read:

87.460. (1) When an attorney or other [*member*] **licensee** of the Oregon State Bar licensed to practice law claims a lien under ORS 87.445, if the judgment is for the possession, award or conveyance of real property, the attorney or [*member*] **licensee** must file a notice of claim of lien not later than six months after entry of the judgment and disposition of any appeal of the judgment. The notice shall be filed with the recording officer of the county in which the real property, or any part of it, is situated. The recording officer of a county shall record the notices filed under this section in a book that shall be indexed in the same manner as the record of deeds and mortgages.

(2) Except as provided in subsection (3) of this section, a lien under ORS 87.445 upon a judgment for the possession, award or conveyance of real property must be foreclosed in the manner provided in ORS chapter 88, not later than one year after the notice of claim of lien is filed under subsection (1) of this section.

(3) An attorney or [*member*] **licensee** and the client of the attorney or [*member*] **licensee** may, by agreement, in writing, extend the period of time within which a lien created by ORS 87.445 must be foreclosed to two years after the notice of claim of lien is filed. An agreement to extend a foreclosure period under this subsection shall contain the time and place of the filing of the notice of claim of lien by the attorney or [*member*] **licensee** and shall be filed with the recording officer with whom the notice of claim of lien was filed.

SECTION 92. ORS 172.010 is amended to read:

172.010. (1) A commission hereby is created to be known as the Commission on Uniform State Laws which shall consist of:

(a) Three [*members*] **licensees** of the bar who shall be appointed by the Governor for terms of four years each, or until their successors are appointed and qualify; and

(b) Any resident of this state who has been elected a life member of the National Conference of Commissioners on Uniform State Laws because of long service in the cause of uniformity of state legislation.

(2) The commissioners shall meet at least once in two years and shall elect one of their number as chairperson and another as secretary, each of whom shall hold office for a term of two years, or until a successor is elected and qualifies.

(3) Upon the death, resignation or failure or refusal to serve of any appointed commissioner, the office shall become vacant and the Governor shall make an appointment to fill the vacancy for the unexpired term of the former appointee.

(4) A member is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 93. ORS 173.135 is amended to read:

173.135. When deemed necessary or advisable to protect the official interests of the Legislative Assembly, one or more legislative committees, or one or more members of the Legislative Assembly, the Legislative Counsel Committee may direct the Legislative Counsel and the staff of the Legislative Counsel, or may retain any [member] **licensee** of the Oregon State Bar, to appear in, commence, prosecute or defend any action, suit, matter, cause or proceeding in any court or agency of this state or of the United States. Expenses and costs incurred pursuant to this section may be paid by the committee from any funds available to the committee.

SECTION 94. ORS 180.235 is amended to read:

180.235. (1) Notwithstanding any provision of law to the contrary, whenever the Attorney General concludes that it is inappropriate and contrary to the public interest for the office of the Attorney General to concurrently represent more than one public officer or agency in a particular matter or class of matters in circumstances which would create or tend to create a conflict of interest on the part of the Attorney General, the Attorney General may authorize one or both of such officers or agencies to employ its own general or special counsel in the particular matter or class of matters and in related matters. Such authorization may be terminated by the Attorney General whenever the Attorney General determines that separate representation is no longer appropriate.

(2) Any counsel so employed shall be a [member] **licensee** of the Oregon State Bar and shall be paid a salary or other compensation out of the funds appropriated to such officer or agency.

(3) In any matter in which the Attorney General has authorized employment of such counsel, any references to representation of such officer or agency by the Attorney General contained in any provision of law shall be deemed to refer to such counsel.

SECTION 95. ORS 183.610 is amended to read:

183.610. (1)(a) The Governor shall appoint a person to serve as chief administrative law judge for the Office of Administrative Hearings. The appointment of the chief administrative law judge is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(b) At the time of appointment, the chief administrative law judge must be an active [member] **licensee** of the Oregon State Bar with at least one year of employment experience in administrative law or administrative hearings. Within six months after the appointment, the chief administrative law judge must meet all qualifications required of an administrative law judge under ORS 183.615.

(c) The Governor shall consider recommendations by the Office of Administrative Hearings Oversight Committee in appointing or reappointing a chief administrative law judge.

(d) The chief administrative law judge has all the powers necessary and convenient to organize and manage the office. Subject to the State Personnel Relations Law, the chief administrative law judge shall employ all persons necessary for the administration of the office, prescribe the duties of those employees and fix their compensation.

(e) The chief administrative law judge shall serve for a term of four years.

(f) Upon a vacancy or expected vacancy in the office of chief administrative law judge, the Governor shall notify the Office of Administrative Hearings Oversight Committee and the Oregon State Bar of the vacancy and direct the Employment Department, in coordination with the oversight committee, to conduct a public candidate search, recruitment and application process to assist the oversight committee in making recommendations to the Governor to fill the vacancy. The Governor may appoint an acting chief administrative law judge until the vacancy is filled.

(g) Notwithstanding ORS 236.140, the Governor may remove the chief administrative law judge only for cause, but the Governor may decline to reappoint the chief administrative law judge at the end of the four-year term without cause.

(2) The chief administrative law judge shall employ administrative law judges. The chief administrative law judge shall ensure that administrative law judges employed for the office receive all training necessary to meet the standards required under the program created under ORS 183.680.

(3) The chief administrative law judge shall take all actions necessary to protect and ensure the independence of each administrative law judge assigned from the office.

SECTION 96. ORS 183.690 is amended to read:

183.690. (1) The Office of Administrative Hearings Oversight Committee is created. The committee consists of nine members, as follows:

(a) The President of the Senate and the Speaker of the House of Representatives shall appoint four legislators to the committee. Two shall be Senators appointed by the President. Two shall be Representatives appointed by the Speaker.

(b) The Governor shall appoint two members to the committee. At least one of the members appointed by the Governor shall be an active [member] **licensee** of the Oregon State Bar with experience in representing parties who are not agencies in contested case hearings.

(c) The Attorney General shall appoint two members to the committee.

(d) The chief administrative law judge for the Office of Administrative Hearings shall serve as an ex officio member of the committee. The chief administrative law judge may cast a vote on a matter before the committee if the votes of the other members are equally divided on the matter.

(2) The term of a legislative member of the committee shall be two years. If a person appointed by the President of the Senate or by the Speaker of the House ceases to be a Senator or Representative during the person's term on the committee, the person may continue to serve as a member of the committee for the balance of the member's term on the committee. The term of all other appointed members shall be four years. Appointed members of the committee may be reappointed. If a vacancy occurs in one of the appointed positions for any reason during the term of membership, the official who appointed the member to the vacated position shall appoint a new member to serve the remainder of the term. An appointed member of the committee may be removed from the committee at any time by the official who appointed the member.

(3)(a) The members of the committee shall select from among themselves a chairperson and a vice chairperson.

(b) The committee shall meet at such times and places as determined by the chairperson.

(4) Legislative members shall be entitled to payment of per diem and expense reimbursement under ORS 171.072, payable from funds appropriated to the Legislative Assembly.

(5) The committee shall:

(a) Study the operations of the Office of Administrative Hearings;

(b) Make any recommendations to the Governor and the Legislative Assembly that the committee deems necessary to increase the effectiveness, fairness and efficiency of the operations of the Office of Administrative Hearings;

(c) Make any recommendations for additional legislation governing the operations of the Office of Administrative Hearings;

(d) Make recommendations to the Governor for the appointment or reappointment of the chief administrative law judge; and

(e) Conduct such other studies as necessary to accomplish the purposes of this subsection.

(6)(a) The Office of Administrative Hearings shall provide the committee with staff.

(b) The Employment Department shall provide the committee with human resources services and assist the committee with candidate searches for appointment of the chief administrative law judge.

SECTION 97. ORS 192.461 is amended to read:

192.461. (1) The office of the Public Records Advocate is created as an independent office within the executive department, separate and distinct from any other state agency.

(2) The Public Records Advocate shall be appointed by the Public Records Advisory Council under ORS 192.481.

(3) The Public Records Advocate shall be a [member] **licensee** in good standing of the Oregon State Bar.

(4) The term of office of the Public Records Advocate shall be four years, except that the advocate may be removed for cause by the Public Records Advisory Council. A determination to remove for cause may be appealed as a contested case proceeding under ORS chapter 183.

(5) The advocate may be reappointed to consecutive terms.

(6) The Public Records Advocate is in the exempt service.

(7)(a) The Public Records Advocate shall select, appoint and fix the compensation of a Deputy Public Records Advocate. The Deputy Public Records Advocate shall be a [member] **licensee** in good standing of the Oregon State Bar.

(b) The Public Records Advocate may delegate to the Deputy Public Records Advocate any authority, power or duty to act possessed by the Public Records Advocate except the power to delegate set forth in this paragraph.

(c) If the position of the Public Records Advocate becomes vacant, the Deputy Public Records Advocate shall serve as the acting Public Records Advocate until a new Public Records Advocate has been appointed.

(8)(a) The Public Records Advocate may hire and fix the compensation of other professional staff to assist in performing the duties assigned to the Public Records Advocate.

(b) Officers and employees of the office of the Public Records Advocate are in the exempt service.

(9) The Public Records Advocate may seek out office facilities and administrative support from other state agencies or local public bodies. State agencies shall assist the advocate. Local public bodies may assist the advocate.

SECTION 98. ORS 194.375 is amended to read:

194.375. (1) A notary public may protest commercial paper if the notary public is:

(a) An officer or employee of a financial institution or trust company;

(b) An officer or employee of an investment company;

(c) An individual serving under the direct supervision of an officer or employee of a financial institution, trust company or investment company; or

(d) An active [member] **licensee** of the Oregon State Bar, or an individual serving under the direct supervision of an active [member] **licensee** of the Oregon State Bar.

(2) Each notary public who protests commercial paper shall take the actions required by ORS 73.0505.

(3) A notary public may not protest commercial paper owned or held for collection by a financial institution, trust company or investment company if the notary public is individually a party to the commercial paper.

(4) As used in this section:

(a) "Financial institution" has the meaning given that term in ORS 706.008.

(b) "Investment company" means an entity that is registered as an investment company under the federal investment company laws.

(c) "Trust company" has the meaning given that term in ORS 706.008.

SECTION 99. ORS 197.810 is amended to read:

197.810. (1) There is hereby created a Land Use Board of Appeals consisting of not more than three positions. Board members shall be appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. The board shall consist of a board chairperson chosen by the board members and such other board members as the Governor considers necessary. The members of the board shall serve terms of four years. A member is eligible for re-appointment. The salaries of the members shall be fixed by the Governor unless otherwise provided for by law. The salary of a member of the board shall not be reduced during the period of service of the member.

(2) The Governor may at any time remove any member of the board for inefficiency, incompetence, neglect of duty, malfeasance in office or unfitness to render effective service. Before such removal the Governor shall give the member a copy of the charges against the member and shall fix the time when the member can be heard in defense against the charges, which shall not be less

than 10 days thereafter. The hearing shall be open to the public and shall be conducted in the same manner as a contested case under ORS chapter 183. The decision of the Governor to remove a member of the board shall be subject to judicial review in the same manner as provided for review of contested cases under ORS 183.480 to 183.540.

(3) Board members appointed under subsection (1) of this section shall be [members] **licensees** in good standing of the Oregon State Bar.

SECTION 100. ORS 221.142 is amended to read:

221.142. (1) As a qualification for the office, a municipal judge must:

(a) Be a [member] **licensee** of the Oregon State Bar;

(b) Have completed a course on courts of special jurisdiction offered by the National Judicial College, or complete the course within 12 months after appointment or election to the office of municipal judge; or

(c) Have completed, or complete within 12 months after appointment or election to the office of municipal judge, a course that is equivalent to the course described in paragraph (b) of this subsection, proposed by the municipal judge and approved by the Chief Justice of the Supreme Court.

(2) If exigent circumstances prevent a municipal judge from completing the course required under subsection (1)(b) of this section within 12 months after appointment or election to the office of municipal judge, the presiding judge of the judicial district in which the municipal court is located may grant the municipal judge one extension of time to complete the course. The extension may not exceed 12 months. The presiding judge may require the municipal judge to complete additional educational requirements during an extension granted under this subsection.

(3) Notwithstanding subsection (1) of this section, a municipal judge in a municipal court that is a court of record under ORS 221.342 must be a [member] **licensee** of the Oregon State Bar.

(4) Any person serving temporarily as a municipal judge must possess the qualifications for the office of municipal judge described in this section.

SECTION 101. ORS 221.342 is amended to read:

221.342. (1) Any municipal court may become a court of record by:

(a) The passage of an ordinance by the governing body of the city in which the court is located; and

(b) The entry of an order by the Supreme Court acknowledging the filing of the declaration required under subsection (2) of this section.

(2) Before a municipal court may become a court of record, the governing body of the city in which the court is located must file a declaration with the Supreme Court that includes:

(a) A statement that the municipal court satisfies the requirements of this section for becoming a court of record;

(b) The address and telephone number of the clerk of the municipal court; and

(c) The date on which the municipal court will commence operations as a court of record.

(3) The Supreme Court may not charge a fee for filing a declaration under subsection (2) of this section. Not later than 30 days after a declaration is filed under subsection (2) of this section, the Supreme Court shall enter an order acknowledging the filing of the declaration and give notice of the order of acknowledgment to the city and the public.

(4) The city shall provide a court reporter or an audio recording device for each municipal court made a court of record under this section.

(5) The appeal from a judgment entered in a municipal court that becomes a court of record under this section shall be as provided in ORS chapter 138 for appeals from judgments of circuit courts.

(6) As a qualification for the office, a municipal judge for any municipal court that becomes a court of record must be a [member] **licensee** of the Oregon State Bar.

SECTION 102. ORS 238.535 is amended to read:

238.535. (1) Prior to attaining 60 years of age, all judge members shall elect in writing to retire under either paragraph (a) or (b) of this subsection. The election shall be irrevocable after the judge member attains 60 years of age. Any judge member who fails to make the election provided for in

this subsection prior to attaining 60 years of age shall be retired under the provisions of paragraph (a) of this subsection.

(a) Upon retiring from service as a judge at the age of 65 years or thereafter, a judge member who has made contributions to the Public Employees Retirement Fund during each of five calendar years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund) provided by the contributions of the judge member and the state in an annual amount equal to 2.8125 percent of final average annual salary multiplied by the number of years of service as a judge not exceeding 16 years of service as a judge and 1.67 percent of final average salary multiplied by the number of years of service as a judge exceeding 16 years of service as a judge, but the annual amount shall not exceed 65 percent of final average salary.

(b) Upon retiring from service as a judge at the age of 60 years or thereafter, a judge member who has made contributions to the Public Employees Retirement Fund during each of five calendar years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund) provided by the contributions of the judge member and the state in an annual amount equal to 3.75 percent of final average salary multiplied by the number of years of service as a judge not exceeding 16 years of service as a judge and two percent of final average salary multiplied by the number of years of service as a judge exceeding 16 years of service as a judge, but the annual amount shall not exceed 75 percent of final average salary.

(c) Any judge member electing to retire under paragraph (b) of this subsection shall serve as a pro tem judge, without compensation, for 35 days per year for a period of five years. A judge who serves more than 35 days per year may carry over the additional days to fulfill the pro tem service obligation in future years. The five-year period shall commence on the judge member's date of retirement or the date on which the judge member commences pro tem service under ORS 238.545 (4), whichever is earlier. Judge members may be reimbursed for expenses incurred in providing pro tem services under this paragraph. Upon certification from the Chief Justice that any judge member who retired under paragraph (b) of this subsection has failed to perform the pro tem services required under this paragraph, and has not been relieved of the obligations to perform those services in the manner provided by this paragraph, the Public Employees Retirement Board shall recalculate the service retirement allowance of the noncomplying judge member as though the judge member elected to retire under paragraph (a) of this subsection, and the noncomplying judge member shall receive only that recalculated amount thereafter. A judge may be relieved of the pro tem service obligation imposed by this paragraph if the judge fails for good cause to complete the obligation. A retired judge member who is relieved of the obligation to serve as a pro tem judge shall continue to receive the retirement allowance provided in paragraph (b) of this subsection.

(d) For the purpose of paragraph (c) of this subsection:

(A) "Good cause" includes, but is not limited to:

(i) Physical or mental incapacitation of a judge that prevents the judge from discharging the duties of judicial office;

(ii) Failure of the appointing authority to assign a judge to the requisite amount of pro tem service, whether because of insufficient need for pro tem judges, a determination by the appointing authority that the skills of a judge do not match the needs of the courts, clerical mistake, or otherwise; or

(iii) Death of a judge.

(B) "Good cause" does not include:

(i) A judge's refusal, without good cause, to accept pro tem assignments sufficient to meet the required amount; or

(ii) A judge's affirmative voluntary act that makes the judge unqualified to serve as a judge of this state including, but not limited to, failure to maintain active [*membership in*] **licensure** by the Oregon State Bar, acceptance of a position in another branch of state government, or acceptance of a position in the Government of the United States or of another state or nation.

(e) The Chief Justice may make rules for the implementation of this subsection.

(2) As used in subsection (1) of this section, “final average salary” means whichever of the following is greater:

(a) The average salary per calendar year paid to a judge member in three of the calendar years of service as a judge before the judge member retires, in which three years the judge member was paid the highest salary.

(b) One-third of the total salary paid to a judge member in the last 36 calendar months of service as a judge before the judge member retires.

(3) As used in subsection (1) of this section, “number of years of service” means the number of full years plus any remaining fraction of a year. In determining a remaining fraction, a full month shall be considered as one-twelfth of a year and a major fraction of a month shall be considered as a full month.

(4) For a judge who elects to become a judge member as provided in ORS 237.215 (3) (1989 Edition), the service retirement allowance under subsection (1) of this section on retirement at the age of 70 years and either 12 years of service or two full six-year terms as a judge shall be at least the equivalent of the retirement pay the judge would have received had the judge retired under ORS 1.314 to 1.390 (1989 Edition).

(5) A judge member who has made contributions to the Public Employees Retirement Fund during each of five calendar years and who attains the age of 60 years shall be retired upon written application by the judge member to the board on a reduced service retirement allowance that shall be the actuarial equivalent of the service retirement allowance provided for in subsection (1)(a) of this section.

(6) For the purposes of this section, a judge who elects to become a judge member as provided in ORS 237.215 (3) (1989 Edition) shall be considered to have made contributions to the Public Employees Retirement Fund during one calendar year for each calendar year during which the judge made contributions to the Judges’ Retirement Fund.

(7)(a) Notwithstanding subsection (1)(a) of this section, the maximum percentage used in calculating the annual amount of the life pension (nonrefund) for a judge who is a judge member on September 27, 1987, or who elected to become a judge member in the manner provided by ORS 237.215 (3)(b) or (4)(b) (1989 Edition), shall be the percentage specified by paragraph (b) of this subsection if either:

(A) On September 27, 1987, the judge had more than 28 years of service that were creditable either under the system; or

(B) On September 27, 1987, the judge had more than 28 years of service that were creditable under the Judges’ Retirement Fund established pursuant to ORS 1.314 to 1.390 (1989 Edition) and the judge became a member of the system under the provisions of ORS 237.215 (3)(b) (1989 Edition).

(b) The maximum percentage used in calculating the annual amount of the life pension (nonrefund) of a judge member who meets the requirements of paragraph (a) of this subsection shall not exceed 45 percent plus 1.67 percent multiplied by the number of years of service as a judge that exceed 16 years and that were served on or before September 27, 1987.

(c) In computing the annual amount of the life pension of a judge who meets the requirements of paragraph (a) of this subsection, the board shall use the percentage specified by paragraph (b) of this subsection and the final average salary of the judge computed on the date of retirement, not the final average salary of the judge computed as of September 27, 1987. In making the computation under this subsection, the board shall use the definition of “final average salary” provided by ORS 238.535 as amended by section 2, chapter 625, Oregon Laws 1987.

SECTION 103. ORS 240.123 is amended to read:

240.123. (1) The Employment Relations Board shall employ such personnel as it considers necessary for the efficient administration of its vested duties, and fix the compensation of its employees in accordance with the compensation plan for state employees.

(2) The board shall designate a [member] **licensee** of the Oregon State Bar as counsel to assist it in the performance of its functions and duties. Notwithstanding ORS chapter 180 and independently of the Attorney General, the designated counsel may represent the board in any litigation or

other matter pending in a court of law to which the board is a party or in which it is otherwise interested. The designated counsel may not appear before the board in any other capacity.

SECTION 104. ORS 244.250 is amended to read:

244.250. (1) The Oregon Government Ethics Commission is established, consisting of nine members. The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following manner:

(a) The Governor shall appoint eight members from among persons recommended, two each by the leadership of the Democratic and Republican parties in each house of the Legislative Assembly. If a person recommended by the leadership of the Democratic or Republican party is not approved by the Governor, the leadership shall recommend another person.

(b) The Governor shall appoint one member without leadership recommendation.

(2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the commission may not be appointed to the commission. No more than three members may be members of the same political party.

(3) The term of office of a member is four years. A member is not eligible to be appointed to more than two full terms but may additionally serve out an unexpired term. Vacancies shall be filled by the appointing authority for the unexpired term.

(4) The commission shall elect a chairperson and vice chairperson for such terms and duties as the commission may require.

(5) A quorum consists of five members but a final decision may not be made without an affirmative vote of a majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) The commission may retain or appoint qualified legal counsel who must be a [member] **licensee** of the Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under this subsection may be made only when the commission finds it is inappropriate and contrary to the public interest for the office of the Attorney General to represent concurrently more than one public official or agency in any matter before the commission because the representation:

(a) Would create or tend to create a conflict of interest; and

(b) Is not subject to ORS 180.230 or 180.235.

(8) The Attorney General may not represent before the commission any state public official who is the subject of any complaint or action of the commission at the commission's own instigation.

SECTION 105. ORS 398.012 is amended to read:

398.012. (1) The Governor, on the recommendation of the Adjutant General, shall appoint an officer of the organized militia as State Judge Advocate. To be eligible for appointment as State Judge Advocate, an officer must:

(a) Be a [member] **licensee** in good standing of the Oregon State Bar;

(b) Have been a [member] **licensee** of the Oregon State Bar for at least five years; and

(c) Meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

(2) The Adjutant General may appoint an officer of the organized militia as an Assistant State Judge Advocate. The Adjutant General may appoint as many Assistant State Judge Advocates as the Adjutant General deems necessary. To be eligible for appointment as an Assistant State Judge Advocate, an officer must:

(a) Be a [member] **licensee** in good standing of the Oregon State Bar; and

(b) Meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

(3)(a) The Adjutant General may appoint members of the organized militia who are [members] **licensees** in good standing of the Oregon State Bar as temporary Assistant State Judge Advocates. An individual appointed as a temporary Assistant State Judge Advocate has 12 months from the date

of appointment to meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

(b) A temporary Assistant State Judge Advocate who has met the requirements under this subsection is eligible for appointment as an Assistant State Judge Advocate.

(c) The Adjutant General may extend, for an additional 12 months, the time during which a temporary Assistant State Judge Advocate must meet the qualifications described in paragraph (a) of this subsection.

(4) The State Judge Advocate, the senior Army or Air Force judge advocate in the organized militia or their assistants shall make frequent inspections in the field for supervision of the administration of military justice and general military legal matters.

(5)(a) Convening authorities shall at all times communicate directly with their judge advocate in matters relating to the administration of military justice and general military legal matters.

(b) The judge advocate of any command may communicate directly with the judge advocate of a superior or subordinate command, the State Judge Advocate or the senior Army or Air Force judge advocate in the organized militia.

(6) A person who has acted as [member] **licensee**, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel or investigating officer, or who has been a witness for either the prosecution or defense in any case, may not later act as judge advocate to any reviewing authority upon the same case.

(7) A judicial officer, as defined by ORS 1.210, is not prohibited, by reason of holding that office, from:

(a) Performing all acts necessary or incumbent to the authorized exercise of duties as a judge advocate.

(b) Being assigned as a judge advocate by the Adjutant General as appointed by the Governor as Commander in Chief under the Oregon Constitution.

SECTION 106. ORS 398.420 is amended to read:

398.420. (1) There is established within the Oregon Military Department the Armed Forces Court of Appeals for Oregon.

(2) The court shall have exclusive jurisdiction over appeals properly brought under this chapter, the Oregon Code of Military Justice and ORS chapters 396 and 399.

(3) The Adjutant General shall appoint three persons who shall serve as judges on the court. The persons appointed shall serve without compensation.

(4) One person shall be Chief Judge and two persons shall be Associate Judges. The Chief Judge shall be selected by the three judges. The selection shall be subject to the approval of the Adjutant General.

(5)(a) Appointments shall be for a term of six years, except that the initial appointments of the judges shall be for the following terms:

(A) One judge shall serve a two-year term.

(B) One judge shall serve a four-year term.

(C) One judge shall serve a six-year term.

(b) The term of office of any successor judges shall be six years, but any judge appointed to fill a vacancy occurring prior to the expiration of the term for which the judge's predecessor was appointed shall be appointed only for the unexpired term of the predecessor.

(c) Any person appointed to a full or partial term on the court, unless otherwise disqualified, shall be eligible for reappointment.

(6) A person is eligible for appointment to the court if the person:

(a) Is a [member] **licensee** of the Oregon State Bar and admitted to practice before the highest court of this state;

(b) Is a former commissioned officer of the Armed Forces of the United States or the reserve components, or is a former or current member of the Oregon Civil Defense Force; and

(c) Has at least:

(A) Five years' experience as an officer in the Judge Advocate General's Corps; or

- (B) Fifteen years' experience in the Judge Advocate Branch of the Oregon Civil Defense Force.
- (7) Judges of the court may be removed by the Adjutant General, upon notice and hearing, for neglect of duty or malfeasance in office or for mental or physical disability, but for no other cause.
- (8) If a judge of the court is temporarily unable to perform the judge's duties due to mental or physical disability, the Adjutant General may designate another person eligible for appointment to the court to fill the office for the period of disability.
- (9) The Oregon Military Department shall be responsible for reimbursement and funding of all usual travel and per diem expenses of the judges.
- (10) The Adjutant General shall issue regulations to govern appellate procedure before the court. The regulations shall be substantially similar to the provisions for post-trial procedure and review of courts-martial under the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.
- (11) A party aggrieved by a decision of the Armed Forces Court of Appeals for Oregon may petition the Supreme Court of this state for review within 35 days after the date of the decision, in the manner provided by rules of the Supreme Court.
- (12) As used in this section, "component" includes the Army National Guard, the Air National Guard and the Oregon Civil Defense Force.

SECTION 107. ORS 418.043 is amended to read:

418.043. (1) The members of the Governor's Child Foster Care Advisory Commission must be residents of this state with experience and expertise in the foster care system in this state, including but not limited to:

- (a) Current or former foster parents and current or former foster children;
- (b) Family members of individuals described in paragraph (a) of this subsection;
- (c) Biological parents involved in the foster care system in this state;
- (d) Representatives of advocacy organizations that advocate regarding issues pertaining to the foster care system in this state;
- (e) Representatives of public, private, profit and nonprofit agencies, organizations and other entities with experience in, interest in and responsibility for the provision of care to children in the foster care system in this state;
- (f) [*Members*] **Licenseses** of the Oregon State Bar with expertise in family and juvenile dependency law;
- (g) Representatives of law enforcement agencies and district attorneys;
- (h) Former employees of the Department of Human Services, Oregon Health Authority and Department of Justice who were responsible for the administration and oversight of the child welfare and foster care systems in this state, including but not limited to former caseworkers and former court appointed special advocates;
- (i) Representatives of the Judicial Department; and
- (j) Representatives of federally recognized Indian tribes in Oregon and organizations serving Native Americans.

(2) The members of the commission shall select one of the commission's members to serve as chairperson and another to serve as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the commission determines.

(3) A majority of the members of the commission constitutes a quorum for the transaction of business.

(4) The commission shall meet at least once every three months at a time and place determined by the chairperson of the commission. The commission also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

(5) All agencies of state government, as defined in ORS 174.111, are directed to assist the commission in the performance of the commission's duties, powers and obligations and, to the extent permitted by laws relating to confidentiality, to furnish information that the members of the commission consider necessary in order to further the work of the commission.

(6) The Department of Human Services shall provide the commission, including any advisory or technical committees established under ORS 418.046, with any necessary clerical and administrative staff support, including, at a minimum, one full-time equivalent (FTE) policy analyst.

SECTION 108. ORS 419B.866 is amended to read:

419B.866. (1) If a party is represented by an attorney, every answer, motion and other paper of the party must be signed by an attorney of record who is an active [*member*] **licensee** of the Oregon State Bar. If a party is not represented by an attorney, the party shall sign the petition, answer, motion or other paper and state the address of the party. Only petitions need be verified. Motions must be accompanied by an affidavit unless the parties agree otherwise.

(2) If a petition, answer, motion or other paper is not signed, it must be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(3)(a) Except as otherwise provided in paragraph (d) of this subsection, by signing, filing or otherwise submitting an argument in support of a petition, answer, motion or other paper, an attorney or party makes the certifications to the court identified in paragraphs (b), (c) and (d) of this subsection and further certifies that the certifications are based on the person's reasonable knowledge, information and belief formed after the making of any inquiry that is reasonable under the circumstances.

(b) A party or attorney certifies that the petition, answer, motion or other paper is not being presented for any improper purpose including, but not limited to, harassing or causing unnecessary delay or needless increase in the cost of litigation.

(c) An attorney certifies that the claims and other legal positions taken in the petition, answer, motion or other paper are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law.

(d) A party or attorney certifies that the allegations and other factual assertions in the petition, answer, motion or other paper are supported by evidence. An allegation or other factual assertion that the party or attorney does not wish to certify is supported by evidence must be specifically identified. The party or attorney certifies that the party or attorney reasonably believes that an allegation or other factual assertion so identified will be supported by evidence after further investigation and discovery.

SECTION 109. ORS 646.608, as amended by section 6, chapter 410, Oregon Laws 2023, is amended to read:

646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as the real estate, goods or services of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services, fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.

(y) Sells a thermostat that contains mercury, unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

(bb) Violates ORS 646A.070 (1).

(cc) Violates any requirement of ORS 646A.030 to 646A.040.

(dd) Violates the provisions of ORS 128.801 to 128.898.

(ee) Violates ORS 646.883 or 646.885.

(ff) Violates ORS 646.569 or 646A.374.
 (gg) Violates the provisions of ORS 646A.142.
 (hh) Violates ORS 646A.360.
 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
 (jj) Violates ORS 646.563.
 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.
 (mm) Violates ORS 646A.210 or 646A.214.
 (nn) Violates any provision of ORS 646A.124 to 646A.134.
 (oo) Violates ORS 646A.095.
 (pp) Violates ORS 822.046.
 (qq) Violates ORS 128.001.
 (rr) Violates ORS 646A.800 (2) to (4).
 (ss) Violates ORS 646A.090 (2) to (5).
 (tt) Violates ORS 87.686.
 (uu) Violates ORS 646A.803.
 (vv) Violates ORS 646A.362.
 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
 (xx) Violates ORS 180.440 (1) or 180.486 (1).
 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
 (zz) Violates ORS 87.007 (2) or (3).
 (aaa) Violates ORS 92.405 (1), (2) or (3).
 (bbb) Engages in an unlawful practice under ORS 646.648.
 (ccc) Violates ORS 646A.365.
 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858.
 (eee) Sells a gift card in violation of ORS 646A.276.
 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
 (ggg) Violates ORS 646A.430 to 646A.450.
 (hhh) Violates a provision of ORS 744.318 to 744.384.
 (iii) Violates a provision of ORS 646A.702 to 646A.720.
 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.
 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. 3901 et seq., as in effect on January 1, 2010.
 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
 (nnn) Violates ORS 646A.082.
 (ooo) Violates ORS 646.647.
 (ppp) Violates ORS 646A.115.
 (qqq) Violates a provision of ORS 646A.405.
 (rrr) Violates ORS 646A.092.
 (sss) Violates a provision of ORS 646.644.
 (ttt) Violates a provision of ORS 646A.295.
 (uuu) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active [member] **licensee** of the Oregon State Bar.
 (vvv) Violates ORS 702.012, 702.029 or 702.054.
 (www) Violates ORS 646A.806.
 (xxx) Violates ORS 646A.810 (2).
 (yyy) Violates ORS 443.376.

(zzz) Violates a provision of ORS 646A.770 to 646A.787.

(aaaa) Violates ORS 815.077.

(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.

(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.

(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is limited to an injunction, and the prevailing party may be awarded reasonable attorney fees.

SECTION 110. ORS 654.290 is amended to read:

654.290. (1) Promulgation by the Director of the Department of Consumer and Business Services or by the Workers' Compensation Board of regulations, rules and standards authorized by ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, and any judicial review thereof, shall be as provided in ORS chapter 183.

(2) Notwithstanding ORS 183.315 (1), the issuance of orders pursuant to ORS 654.001 to 654.295, 654.412 to 654.423 and 654.750 to 654.780, the conduct of hearings in contested cases and the judicial review thereof shall be as provided in ORS chapter 183, except that:

(a) The chairperson of the Workers' Compensation Board or the designee of the chairperson shall employ Administrative Law Judges to hold hearings in contested cases.

(b) The order of an Administrative Law Judge in a contested case shall be deemed to be a final order of the board.

(c) The director shall have the same right to judicial review of the order of an Administrative Law Judge as any person who is adversely affected or aggrieved by such final order.

(d) Affected employees or their authorized representative shall be accorded an opportunity to participate as parties in hearings.

(3) Administrative Law Judges shall be *[members]* **licensees** in good standing of the Oregon State Bar and possess such other qualifications as the board may prescribe, and shall be employed in accordance with ORS 656.724.

SECTION 111. ORS 656.724 is amended to read:

656.724. (1) The Workers' Compensation Board chairperson, after consultation with the board, shall employ Administrative Law Judges to hold such hearings as may be prescribed by law. An Administrative Law Judge must be a *[member]* **licensee** in good standing of the Oregon State Bar, or the bar of the highest court of record in any other state or currently admitted to practice before the federal courts in the District of Columbia. Administrative Law Judges shall qualify in the same manner as members of the board under ORS 656.716 (2). The board chairperson, after consultation with the board, may appoint Administrative Law Judges to serve for a probationary period of 18 months or less prior to regular employment.

(2) Administrative Law Judges are in the unclassified service under ORS chapter 240, and the board shall fix their salaries in accordance with ORS 240.245.

(3)(a) The board chairperson, after consultation with the board, shall establish criteria whereby each Administrative Law Judge shall receive an annual performance evaluation. Such criteria shall include, but not be limited to, work quality and productivity.

(b) The employment of each Administrative Law Judge shall be subject to formal review by the board chairperson every four years. Complaints and comments filed with the board chairperson regarding the official conduct, competence or fitness of an Administrative Law Judge, as well as the board's records, shall be reviewed by the board chairperson. Not less than 90 days prior to the expiration of the probationary period, or within 180 days but not less than 90 days prior to each

four-year review, the board chairperson shall solicit comments from attorneys practicing in the field of workers' compensation. These comments and all complaints and other records filed with the board chairperson regarding the official conduct, competence or fitness of an Administrative Law Judge shall be reviewed by the board. The board chairperson shall conduct an annual survey of all attorneys regularly participating in workers' compensation cases, in such manner as to allow the attorneys to remain anonymous while rating the Administrative Law Judges as to knowledge of workers' compensation law, judicial temperament, capability to handle hearings, diligence, efficiency and other similar factors. The results of the survey shall be published by the board chairperson, listing each Administrative Law Judge by name.

(c) Notwithstanding ORS 240.240 and in accordance with ORS 240.555 and 240.560, an Administrative Law Judge may be removed at any time, for official misconduct, incompetence, inefficiency, indolence, malfeasance or other unfitness to render effective service.

(4) Administrative Law Judges have the same powers granted to board members or assistants under ORS 656.726 (2)(a), (b), (c) and (d).

(5) A presiding Administrative Law Judge shall be appointed by the board chairperson and shall serve as presiding Administrative Law Judge at the pleasure of the board chairperson. The presiding Administrative Law Judge shall perform such administrative duties as the board chairperson may delegate. The board chairperson may designate another Administrative Law Judge to serve as acting presiding Administrative Law Judge during any period when the presiding Administrative Law Judge is absent or disabled.

(6) Notwithstanding subsections (1) to (5) of this section, the board chairperson, after consultation with the board, may employ any [member] **licensee** of the Oregon State Bar to serve as an Administrative Law Judge on a temporary basis, not to exceed one year, when the board chairperson determines that such employment is necessary in the conduct of the business of the Hearings Division. Criteria and procedures for selecting and employing such Administrative Law Judges shall be identical to those established for regularly employed Administrative Law Judges.

(7) It is the declared purpose of this section to foster and protect the Administrative Law Judges' ability to provide full, fair and speedy hearings and decisions.

SECTION 112. ORS 657.775 is amended to read:

657.775. (1) The courts of the State of Oregon shall recognize and enforce the liability for unemployment insurance contributions imposed by other states which extend a like comity to this state, and officials of such other states may initiate civil proceedings in the courts of this state to enforce the collection of such contributions. The certificate of the Secretary of State of such other states that such officials have the authority to collect the contributions is conclusive evidence of such authority.

(2) The Attorney General is empowered to initiate and prosecute civil proceedings in the courts of other states by and in the name of the Director of the Employment Department to enforce the liability for unemployment insurance contributions imposed by the State of Oregon, and may also initiate and prosecute civil proceedings in this state as agent for and on behalf of any other state to enforce liability for unemployment insurance contributions due such state if the state extends a like comity to the State of Oregon. The compensation for the services of the Attorney General rendered on behalf of other states under this section shall be paid from moneys appropriated to the Employment Department for administrative expenditures. The compensation for similar officers of other states for services rendered on behalf of this state under this section shall be paid by such other state. However, all other expenses of civil proceedings under this section shall be paid by the state, officer or agency thereof at whose request such proceedings were initiated.

(3) The Attorney General, with the approval of the director, may employ a special assistant under ORS 180.140 (5) to initiate and prosecute civil proceedings in other states to enforce liability for unemployment contributions imposed by the State of Oregon and nothing in this section shall be deemed to prevent the officials of other states from employing any [member] **licensee** of the Oregon State Bar to initiate and prosecute civil proceedings in this state to enforce liability for unemployment insurance imposed by such other states.

(4) As used in this section, “contributions” includes interest and penalties imposed pursuant to an unemployment insurance statute.

SECTION 113. ORS 696.182 is amended to read:

696.182. (1) The Real Estate Agency, with advice from real estate professionals and educators, shall establish by rule a system for certification and renewal of real estate continuing education providers.

(2) The agency shall include in the rules that an applicant for certification under this section must be:

(a) A main office or branch office, with a registered business name as provided under ORS 696.026, of a licensed real estate property manager or principal real estate broker;

(b) A licensed title or escrow company conducting business in this state;

(c) A real estate trade association or a trade association in a related field;

(d) A real estate multiple listing service;

(e) An attorney who is an active [member] **licensee** of the Oregon State Bar;

(f) A law firm, in which at least one of the attorneys associated with the law firm is an active [member] **licensee** of the Oregon State Bar;

(g) A private career school licensed by the Higher Education Coordinating Commission and approved by the agency to provide the basic real estate broker’s or property manager’s educational courses required under ORS 696.022;

(h) An accredited community college, an accredited public university listed in ORS 352.002 or a private and independent institution of higher education as defined in ORS 350.635;

(i) A distance learning provider as provided by rule of the agency; or

(j) Another provider approved by the Real Estate Board.

(3) The Real Estate Agency may provide continuing education without being certified under this section.

(4) The agency, in consultation with real estate professionals and educators, shall provide by rule:

(a) A broad list of course topics that are eligible for continuing education credit required by ORS 696.174; and

(b) Learning objectives for each course topic.

(5) The list of course topics developed by the agency under subsection (4) of this section must allow for changes in the real estate profession.

(6) The minimum length of each course is one hour. A continuing education provider or course instructor may allow a break of no more than 10 minutes for each hour of instruction.

SECTION 114. ORS 701.160 is amended to read:

701.160. Notwithstanding ORS 9.320:

(1) A party may appear or be represented by an individual who is not a [member] **licensee** of the Oregon State Bar in a proceeding before the Construction Contractors Board if:

(a) The party is a corporation and the individual is an officer of the corporation;

(b) The party is a partnership, or a limited liability partnership or foreign limited liability partnership as those terms are defined in ORS 67.005, and the individual is a partner in the partnership, limited liability partnership or foreign limited liability partnership;

(c) The party is a limited partnership as defined in ORS 70.005 and the individual is a general partner in the partnership;

(d) The party is a manager-managed limited liability company as defined in ORS 63.001 and the individual is a manager of the company; or

(e) The party is a member-managed limited liability company as defined in ORS 63.001 and the individual is a member of the company.

(2) In addition to parties described in subsection (1) of this section, the board, by rule, may recognize particular business forms as parties that may appear or be represented by an individual who is not a [member] **licensee** of the Oregon State Bar in a proceeding before the board. A board rule adopted under this subsection must identify the business form of the party and specify the re-

quired relationship between the party and the individual. The board may allow appearance or representation of a party only by an individual who is a director, officer, partner, trustee, manager or authorized regular employee of the party.

SECTION 115. ORCP 7 B is amended to read:

B Issuance. Any time after the action is commenced, plaintiff or plaintiff's attorney may issue as many original summonses as either may elect and deliver such summonses to a person authorized to serve summonses under section E of this rule. A summons is issued when subscribed by plaintiff or an active [*member*] **licensee** of the Oregon State Bar.

SECTION 116. ORCP 7 C is amended to read:

C Contents, time for response, and required notices.

C(1) Contents. The summons shall contain:

C(1)(a) **Title.** The title of the cause, specifying the name of the court in which the complaint is filed and the names of the parties to the action.

C(1)(b) **Direction to defendant.** A direction to the defendant requiring defendant to appear and defend within the time required by subsection C(2) of this rule and a notification to defendant that, in case of failure to do so, the plaintiff will apply to the court for the relief demanded in the complaint.

C(1)(c) **Subscription; post office address.** A subscription by the plaintiff or by an active [*member*] **licensee** of the Oregon State Bar, with the addition of the post office address at which papers in the action may be served by mail.

C(2) **Time for response.** If the summons is served by any manner other than publication, the defendant shall appear and defend within 30 days from the date of service. If the summons is served by publication pursuant to subparagraph D(6)(a)(i) of this rule, the defendant shall appear and defend within 30 days from the date stated in the summons. The date so stated in the summons shall be the date of the first publication.

C(3) Notice to party served.

C(3)(a) **In general.** All summonses, other than a summons referred to in paragraph C(3)(b) or C(3)(c) of this rule, shall contain a notice printed in type size equal to at least 8-point type that may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS
CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

C(3)(b) **Service for counterclaim or cross-claim.** A summons to join a party to respond to a counterclaim or a cross-claim pursuant to Rule 22 D(1) shall contain a notice printed in type size equal to at least 8-point type that may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS

CAREFULLY!

You must “appear” to protect your rights in this matter. To “appear” you must file with the court a legal document called a “motion,” a “reply” to a counterclaim, or an “answer” to a cross-claim. The “motion,” “reply,” or “answer” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the defendant’s attorney or, if the defendant does not have an attorney, proof of service on the defendant.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

C(3)(c) Service on persons liable for attorney fees. A summons to join a party pursuant to Rule 22 D(2) shall contain a notice printed in type size equal to at least 8-point type that may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS
CAREFULLY!

You may be liable for attorney fees in this case. Should plaintiff in this case not prevail, a judgment for reasonable attorney fees may be entered against you, as provided by the agreement to which defendant alleges you are a party.

You must “appear” to protect your rights in this matter. To “appear” you must file with the court a legal document called a “motion” or “reply.” The “motion” or “reply” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the defendant’s attorney or, if the defendant does not have an attorney, proof of service on the defendant.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service online at www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

SECTION 117. ORCP 17 A is amended to read:

A Signing by party or attorney; certificate. Every pleading, motion, and other document of a party represented by an attorney shall be signed by at least one attorney of record who is an active [member] **licensee** of the Oregon State Bar. A party who is not represented by an attorney shall sign the pleading, motion, or other document and state the address of the party. The signature for filings may be in the form approved for electronic filing in accordance with these rules or any other rule of court. Pleadings need not be verified or accompanied by an affidavit or declaration.

Passed by Senate February 11, 2025

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House April 28, 2025

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Julie Fahey, Speaker of House

Received by Governor:

.....M.,....., 2025

Approved:

.....M.,....., 2025

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2025

.....
Tobias Read, Secretary of State