

D R A F T

SUMMARY

Makes nonsubstantive and technical changes in Oregon law. Corrects grammar and punctuation. Deletes obsolete provisions. Conforms language to existing statutes and legislative style.

A BILL FOR AN ACT

1
2 Relating to correction of erroneous material in Oregon law; creating new
3 provisions; and amending ORS 18.358, 18.600, 25.010, 25.011, 25.020, 25.080,
4 25.085, 25.089, 25.091, 25.166, 25.240, 25.280, 25.287, 25.399, 25.720, 30.136,
5 30.138, 40.210, 86.610, 86.620, 98.852, 98.858, 107.108, 107.835, 109.065,
6 133.807, 169.080, 173.025, 174.535, 181A.820, 184.619, 227.185, 238.445,
7 244.290, 255.012, 327.880, 413.574, 416.400, 416.407, 416.440, 418.310, 419B.806,
8 443.455, 459A.739, 461.250, 541.984, 543.170, 624.010, 634.306, 646.605,
9 646.608, 646.633, 656.005, 657.855, 676.220, 689.689, 734.810, 750.055 and
10 822.235 and section 1a, chapter 548, Oregon Laws 2015, and ORCP 69 C.

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

12 **SECTION 1.** ORS 174.535 is amended to read:

13 174.535. It is the policy of the Legislative Assembly to revise sections from
14 Oregon Revised Statutes and Oregon law periodically in order to maintain
15 accuracy. However, nothing in chapter 740, Oregon Laws 1983, chapter 565,
16 Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws
17 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon
18 Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997,
19 chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001, chapter 14,
20 Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71, Oregon Laws

1 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws 2011, chapter
2 1, Oregon Laws 2013, chapter 27, Oregon Laws 2015, [*or*] chapter 17, Oregon
3 Laws 2017, **or this 2019 Act** is intended to alter the legislative intent or
4 purpose of statutory sections affected by chapter 740, Oregon Laws 1983,
5 chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171,
6 Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and
7 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon
8 Laws 1997, chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001,
9 chapter 14, Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71,
10 Oregon Laws 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws
11 2011, chapter 1, Oregon Laws 2013, chapter 27, Oregon Laws 2015, [*and*]
12 chapter 17, Oregon Laws 2017, **and this 2019 Act**, except insofar as the
13 amendments thereto, or repeals thereof, specifically require.

14 **NOTE:** Sets forth Reviser’s Bill policy statement.

15 **SECTION 2.** ORCP 69 C is amended to read:

16 C Motion for order of default.

17 C(1) The party seeking default must file a motion for order of default.
18 That motion must be accompanied by an affidavit or declaration to support
19 that default is appropriate and contain facts sufficient to establish the fol-
20 lowing:

21 C(1)(a) that the party to be defaulted has been served with summons
22 pursuant to Rule 7 or is otherwise subject to the jurisdiction of the court;

23 C(1)(b) that the party against whom the order of default is sought has
24 failed to appear by filing a motion or answer, or otherwise to defend as
25 provided by these rules or applicable statute;

26 C(1)(c) whether written notice of intent to appear has been received by
27 the movant and, if so, whether written notice of intent to apply for an order
28 of default was filed and served at least 10 days, or any shortened period of
29 time ordered by the court, prior to filing the motion;

30 C(1)(d) whether, to the best knowledge and belief of the party seeking an
31 order of default, the party against whom judgment is sought is or is not in-

1 incapacitated as defined in ORS 125.005, a minor, a protected person as defined
2 in ORS 125.005, or a respondent as defined in ORS 125.005; and

3 C(1)(e) whether the party against whom the order is sought is or is not
4 a person in the military service, or stating that the movant is unable to de-
5 termine whether or not the party against whom the order is sought is in the
6 military service as required by section 201(b)(1) of the Servicemembers Civil
7 Relief Act, 50 U.S.C. [*App. 521*] **3931**, as amended.

8 C(2) If the party seeking default states in the affidavit or declaration that
9 the party against whom the order is sought:

10 C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected
11 person as defined in ORS 125.005, or a respondent as defined in ORS 125.005,
12 an order of default may be entered against the party against whom the order
13 is sought only if a guardian ad litem has been appointed or the party is re-
14 presented by another person as described in Rule 27; or

15 C(2)(b) is a person in the military service, an order of default may be
16 entered against the party against whom the order is sought only in accord-
17 ance with the Servicemembers Civil Relief Act.

18 C(3) The court may grant an order of default if it appears the motion and
19 affidavit or declaration have been filed in good faith and good cause is
20 shown that entry of such an order is proper.

21 **NOTE:** Adjusts reference in C(1)(e) to reflect federal code reorganization.

22 **SECTION 3.** ORS 18.358 is amended to read:

23 18.358. (1) As used in this section:

24 (a) “Beneficiary” means a person for whom retirement plan benefits are
25 provided or their spouse.

26 (b) “Internal Revenue Code” means the federal Internal Revenue Code as
27 amended and in effect on December 31, 1998.

28 (c) “Permitted contribution” means:

29 (A) A contribution that, at the time of the contribution, is not taxable
30 income to the beneficiary and, if the sponsor is a taxable entity, is tax
31 deductible to the sponsor;

1 (B) A nondeductible contribution by a beneficiary to a retirement plan to
2 the extent that the contribution is permitted to be made under the Internal
3 Revenue Code;

4 (C) A deductible or nondeductible contribution to an individual retire-
5 ment account to the extent the contribution is not subject to federal excise
6 tax as an excess contribution;

7 (D) A contribution, pursuant to a rollover or transfer, from one retire-
8 ment plan to another, to the extent the federal tax deferred status is pre-
9 served at such time;

10 (E) A rollover from an individual retirement account described in section
11 408 of the Internal Revenue Code to an individual retirement account de-
12 scribed in section 408A of the Internal Revenue Code; and

13 (F) Any earnings under a retirement plan [*which*] **that** are attributable
14 to a contribution described in subparagraphs (A) to (E) of this paragraph.

15 (d) "Retirement plan" means:

16 (A) A pension plan and trust, including a profit sharing plan, that is de-
17 scribed in sections 401(a), 401(c), 401(k), 403 and 457 of the Internal Revenue
18 Code, including that portion attributable to contributions made by or at-
19 tributable to a beneficiary;

20 (B) An individual retirement account or annuity, including one that is
21 pursuant to a simplified employee pension, as described in section 408 or
22 408A of the Internal Revenue Code; and

23 (C) Any pension not described in subparagraphs (A) and (B) of this para-
24 graph granted to any person in recognition or by reason of a period of em-
25 ployment by or service for the Government of the United States or any state
26 or political subdivision of any state, or any municipality, person, partner-
27 ship, association or corporation.

28 (e) "Sponsor" means an individual or entity [*which*] **that** establishes a
29 retirement plan.

30 (2) Subject to the limitations set forth in subsection (3) of this section,
31 a retirement plan shall be conclusively presumed to be a valid spendthrift

1 trust under these statutes and the common law of this state, whether or not
2 the retirement plan is self-settled, and a beneficiary's interest in a retirement
3 plan shall be exempt, effective without necessity of claim thereof, from exe-
4 cution and all other process, mesne or final.

5 (3) Notwithstanding subsection (2) of this section:

6 (a) A contribution to a retirement plan, other than a permitted contribu-
7 tion, shall be subject to ORS 95.200 to 95.310 concerning fraudulent transfers;
8 and

9 (b) Unless otherwise ordered by a court under ORS 25.387, 75 percent of
10 a beneficiary's interest in a retirement plan, or 50 percent of a lump sum
11 retirement plan disbursement or withdrawal, shall be exempt from execution
12 or other process arising out of a support obligation or an order or notice
13 entered or issued under **ORS 416.400 to 416.465** or ORS chapter 25, 107, 108,
14 109, 110, [416,] 419B or 419C.

15 **NOTE:** Updates word choice in (1)(c)(F) and (e); eliminates inappropriate
16 chapter reference and substitutes appropriate series reference in (3)(b).

17 **SECTION 4.** ORS 18.600 is amended to read:

18 18.600. As used in ORS 18.600 to 18.850:

19 (1) "Account" means an account at a financial institution, including a
20 master account or subaccount, to which an electronic payment may be di-
21 rectly routed.

22 (2) "Check" has the meaning given that term in ORS 73.0104.

23 (3) "Creditor" means a person to whom a debt is owed by a debtor.

24 (4) "Debt" means any monetary obligation for which a garnishment may
25 be issued under ORS 18.605.

26 (5) "Debtor" means a person whose property is being garnished for the
27 purpose of paying a debt owed to a creditor.

28 (6) "Federal benefit payment" means:

29 (a) A benefit payment from the United States Social Security Adminis-
30 tration that is protected under 42 U.S.C. 407 and 1383(d)(1);

31 (b) A benefit payment from the United States Department of Veterans

1 Affairs that is protected under 38 U.S.C. 5301(a);

2 (c) A benefit payment from the Railroad Retirement Board that is pro-
3 tected under 45 U.S.C. 231m(a) and 352(e); or

4 (d) A benefit payment from the United States Office of Personnel Man-
5 agement that is protected under 5 U.S.C. 8346 and 8470.

6 (7) “Financial institution” means a financial institution or trust company
7 as those terms are defined in ORS 706.008.

8 (8) “Garnishable property” means all property described in ORS 18.615,
9 but does not include:

10 (a) Any property that is not subject to garnishment under ORS 18.618; and

11 (b) Any property that is applied as a setoff under ORS 18.620 or 18.795.

12 (9) “Garnishee” means a person to whom a writ of garnishment has been
13 delivered.

14 (10) “Garnishment account review” means the process of examining de-
15 posits to an account to determine whether benefit payments described in ORS
16 18.784 (3) have been deposited in the account during the lookback period.

17 (11) “Garnishor” means:

18 (a) The creditor, if the writ is issued by the court administrator on behalf
19 of the creditor under ORS 18.635 (2); or

20 (b) The issuer, if the writ is issued under ORS 18.635 by any person other
21 than the court administrator.

22 (12) “Past due support” means the amount of child or spousal support, or
23 both, determined under a court or administrative order in a proceeding under
24 **ORS 416.400 to 416.465 or** ORS chapter 107, 108, 109, 110, [416,] 419B or 419C
25 that has not been paid or is certified to be owed by another state under ORS
26 25.083.

27 (13) “Wages” includes all amounts paid for the services of an employee
28 by an employer, including amounts paid as a commission or bonus.

29 (14) “Writ” means a writ of garnishment.

30 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
31 propriate series reference in (12).

1 **SECTION 5.** ORS 25.010 is amended to read:

2 25.010. As used in **ORS 416.400 to 416.465 and** ORS chapters 25, 107[,]
3 **and** 109 [*and 416*] and any other statutes providing for support payments or
4 support enforcement procedures, unless the context requires otherwise:

5 (1) “Administrator” means either the Administrator of the Division of
6 Child Support of the Department of Justice or a district attorney, or the
7 administrator’s or a district attorney’s authorized representative.

8 (2) “Child” has the meaning given that term in ORS 110.503.

9 (3) “Child support rights” means the right to establish or enforce an ob-
10 ligation imposed or imposable by law to provide support, including but not
11 limited to medical support as defined in ORS 25.321 and an unsatisfied obli-
12 gation to provide support.

13 (4) “Department” means the Department of Justice.

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

18 (6) “Employer” means any entity or individual who engages an individual
19 to perform work or services for which compensation is given in periodic
20 payments or otherwise.

21 (7) “Income” is any monetary obligation in excess of \$4.99 after the fee
22 described in ORS 25.414 (6) has been deducted that is in the possession of a
23 third party owed to an obligor and includes but is not limited to:

24 (a) Compensation paid or payable for personal services whether denomi-
25 nated as wages, salary, commission, bonus or otherwise;

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

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

28 (d) Interest payments;

29 (e) Periodic payments from a trust account;

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

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

2 (h) Amounts payable to independent contractors.

3 (8) “Obligee” has the meaning given that term in ORS 110.503.

4 (9) “Obligor” has the meaning given that term in ORS 110.503.

5 (10) “Order to withhold” means an order or other legal process that re-
6 quires a withholder to withhold support from the income of an obligor.

7 (11) “Public assistance” has the meaning given that term in ORS 416.400.

8 (12) “Withholder” means any person who disburses income and includes
9 but is not limited to an employer, conservator, trustee or insurer of the
10 obligor.

11 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
12 propriate series reference in lead-in.

13 **SECTION 6.** ORS 25.011 is amended to read:

14 25.011. As used in **ORS 416.400 to 416.465 and** ORS chapters 25, 106, 107,
15 108, 109[,] **and** 110 [*and 416*], when a person is required to provide an address,
16 “address” means a residence, mailing or contact address in the same state
17 as the person’s home.

18 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
19 propriate series reference.

20 **SECTION 7.** ORS 25.020 is amended to read:

21 25.020. (1) Support payments for or on behalf of any person that are or-
22 dered, registered or filed under **ORS 416.400 to 416.465 or** this chapter or
23 ORS chapter 107, 108, 109, 110, [*416,*] 419B or 419C, unless otherwise author-
24 ized by ORS 25.030, shall be made to the Department of Justice as the state
25 disbursement unit:

26 (a) During periods for which support is assigned under ORS 412.024,
27 418.032, 419B.406 or 419C.597;

28 (b) As provided by rules adopted under ORS 180.345, when public assist-
29 ance is provided to a person who receives or has a right to receive support
30 payments on the person’s own behalf or on behalf of another person;

31 (c) After the assignment of support terminates for as long as amounts

1 assigned remain owing;

2 (d) For any period during which support enforcement services are pro-
3 vided under ORS 25.080;

4 (e) When ordered by the court under ORS 419B.400;

5 (f) When a support order that is entered or modified on or after January
6 1, 1994, includes a provision requiring the obligor to pay support by income
7 withholding; or

8 (g) When ordered by the court under any other applicable provision of
9 law.

10 (2)(a) The Department of Justice shall disburse payments, after lawful
11 deduction of fees and in accordance with applicable statutes and rules, to
12 those persons and entities that are lawfully entitled to receive such pay-
13 ments.

14 (b) During a period for which support is assigned under ORS 412.024, for
15 an obligee described in subsection (1)(b) of this section, the department shall
16 disburse to the obligee, from child support collected each month, \$50 for each
17 child up to a maximum of \$200 per family.

18 (3)(a) When the administrator is providing support enforcement services
19 under ORS 25.080, the obligee may enter into an agreement with a collection
20 agency, as defined in ORS 697.005, for assistance in collecting child support
21 payments.

22 (b) The collection agency:

23 (A) May provide investigative and location services to the obligee and
24 disclose relevant information from those services to the administrator for
25 purposes of providing support enforcement services under ORS 25.080;

26 (B) May not charge interest or a fee for its services exceeding 29 percent
27 of each support payment received unless the collection agency, if allowed by
28 the terms of the agreement between the collection agency and the obligee,
29 hires an attorney to perform legal services on behalf of the obligee;

30 (C) May not initiate, without written authorization from the administra-
31 tor, any enforcement action relating to support payments on which support

1 enforcement services are provided by the administrator under ORS 25.080;
2 and

3 (D) Shall include in the agreement with the obligee a notice printed in
4 type size equal to at least 12-point type that provides information on the fees,
5 penalties, termination and duration of the agreement.

6 (c) The administrator may use information disclosed by the collection
7 agency to provide support enforcement services under ORS 25.080.

8 (4) The Department of Justice may immediately transmit to the obligee
9 payments received from any obligor without waiting for payment or clear-
10 ance of the check or instrument received if the obligor has not previously
11 tendered any payment by a check or instrument that was not paid or was
12 dishonored.

13 (5) The Department of Justice shall notify each obligor and obligee by
14 mail when support payments shall be made to the department and when the
15 obligation to make payments in this manner shall cease.

16 (6)(a) The administrator shall provide information about a child support
17 account directly to a party to the support order regardless of whether the
18 party is represented by an attorney. As used in this subsection, "information
19 about a child support account" means the:

20 (A) Date of issuance of the support order.

21 (B) Amount of the support order.

22 (C) Dates and amounts of payments.

23 (D) Dates and amounts of disbursements.

24 (E) Payee of any disbursements.

25 (F) Amount of any arrearage.

26 (G) Source of any collection, to the extent allowed by federal law.

27 (b) Nothing in this subsection limits the information the administrator
28 may provide by law to a party who is not represented by an attorney.

29 (7) Any pleading for the entry or modification of a support order must
30 contain a statement that payment of support under a new or modified order
31 will be by income withholding unless an exception to payment by income

1 withholding is granted under ORS 25.396.

2 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a
3 judgment or order establishing parentage or including a provision concerning
4 support must contain:

5 (A) The residence, mailing or contact address, final four digits of the So-
6 cial Security number, telephone number and final four digits of the driver
7 license number of each party;

8 (B) The name, address and telephone number of all employers of each
9 party;

10 (C) The names and dates of birth of the joint children of the parties; and

11 (D) Any other information required by rule adopted by the Chief Justice
12 of the Supreme Court under ORS 1.002.

13 (b) The judgment or order shall also include notice that the obligor and
14 obligee:

15 (A) Must inform the court and the administrator in writing of any change
16 in the information required by this subsection within 10 days after the
17 change; and

18 (B) May request that the administrator review the amount of support or-
19 dered after three years, or such shorter cycle as determined by rule of the
20 Department of Justice, or at any time upon a substantial change of circum-
21 stances.

22 (c) The administrator may require of the parties any additional informa-
23 tion that is necessary for the provision of support enforcement services under
24 ORS 25.080.

25 (d)(A) Upon a finding, which may be made ex parte, that the health, safety
26 or liberty of a party or child would unreasonably be put at risk by the dis-
27 closure of information specified in this subsection or by the disclosure of
28 other information concerning a child or party to a parentage or support
29 proceeding or if an existing order so requires, a court or administrator or
30 administrative law judge, when the proceeding is administrative, shall order
31 that the information not be contained in any document provided to another

1 party or otherwise disclosed to a party other than the state.

2 (B) The Department of Justice shall adopt rules providing for similar
3 confidentiality for information described in subparagraph (A) of this para-
4 graph that is maintained by an entity providing support enforcement services
5 under ORS 25.080.

6 (e) The Chief Justice of the Supreme Court may, in consultation with the
7 Department of Justice, adopt rules under ORS 1.002 to designate information
8 specified in this subsection as confidential and require that the information
9 be submitted through an alternate procedure to ensure that the information
10 is exempt from public disclosure under ORS 192.355.

11 (9)(a) Except as otherwise provided in paragraph (b) of this subsection,
12 in any subsequent child support enforcement action, the court or adminis-
13 trator, upon a showing of diligent effort made to locate the obligor or
14 obligee, may deem due process requirements to be met by mailing notice to
15 the last-known residential, mailing or employer address or contact address
16 as provided in ORS 25.085.

17 (b) Service of an order directing an obligor to appear in a contempt pro-
18 ceeding is subject to ORS 33.015 to 33.155.

19 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty
20 or function upon the Department of Justice, shall be deemed to supersede
21 any provisions of **ORS 416.400 to 416.465 and** ORS chapters 107, 108, 109,
22 110, [416,] 419A, 419B and 419C that would otherwise impose the same duties
23 or functions upon the county clerk or the Department of Human Services.

24 (11) Except as provided for in subsections (12), (13) and (14) of this sec-
25 tion, credit may not be given for payments not made to the Department of
26 Justice as required under subsection (1) of this section.

27 (12) The Department of Justice shall give credit for payments not made
28 to the department:

29 (a) When payments are not assigned to this or another state and the
30 obligee and obligor agree in writing that specific payments were made and
31 should be credited, limited to the current balance owed to the obligee;

1 (b) When payments are assigned to another state and that state verifies
2 that payments not paid to the department were received by the other state;
3 or

4 (c) As provided by rule adopted under ORS 180.345.

5 (13) An obligor may apply to the Department of Justice for credit for
6 payments made other than to the Department of Justice. If the obligee or
7 other state does not provide the agreement or verification required by sub-
8 section (12) of this section, credit may be given pursuant to order of an ad-
9 ministrative law judge assigned from the Office of Administrative Hearings
10 after notice and opportunity to object and be heard are given to both obligor
11 and obligee. Notice shall be served upon the obligee as provided by ORS
12 25.085. Notice to the obligor may be by regular mail at the address provided
13 in the application for credit. A hearing conducted under this subsection is
14 a contested case hearing and ORS 183.413 to 183.470 apply. Any party may
15 seek a hearing de novo in the circuit court.

16 (14) Nothing in this section precludes the Department of Justice from
17 giving credit for payments not made to the department when there has been
18 a judicially determined credit or satisfaction or when there has been a sat-
19 isfaction of support executed by the person to whom support is owed.

20 (15) The Department of Justice shall adopt rules that:

21 (a) Direct how support payments that are made through or credited by the
22 department are to be applied and, if applicable, disbursed; and

23 (b) Are consistent with federal regulations.

24 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
25 propriate series reference in (1) and (10).

26 **SECTION 8.** ORS 25.080 is amended to read:

27 25.080. (1) The following entity is primarily responsible for providing the
28 support enforcement services described in subsection (4) of this section when
29 an application as described in ORS 25.084 is made, or when an assignment
30 of support rights is made to the state:

31 (a) The Division of Child Support of the Department of Justice:

1 (A) If support rights are, or were within the past five months, assigned
2 to this or another state; or

3 (B) In any case where arrearage under a support order is assigned or
4 owed to or the right to recover back support or state debt is held by this
5 state or another state.

6 (b) Except as provided in subsection (6) of this section, the district at-
7 torney in cases other than those described in paragraph (a) of this subsection
8 if an application as described in ORS 25.084 is made by the obligee, by the
9 obligor, by a person having physical custody of a minor child or by a child
10 attending school, as defined in ORS 107.108.

11 (2) The provisions of this section apply to support enforcement services
12 for any order or judgment that is or could be entered under ORS **416.400 to**
13 **416.465**, 419B.400 or 419C.590 or ORS chapter 107, 108, 109[,] **or** 110 [*or 416*].
14 The entity specified in subsection (1) of this section shall provide the support
15 enforcement services on behalf of the State of Oregon and not on behalf of
16 any other party or on behalf of a parent. The Department of Justice shall
17 adopt rules addressing the provision of support enforcement services when
18 the purposes of the state in providing those services may be contradictory
19 in individual cases.

20 (3) Notwithstanding the division of responsibility for providing support
21 enforcement services between the Division of Child Support and the district
22 attorney as described in subsection (1) of this section, provision of support
23 enforcement services may not be challenged on the basis that the entity
24 providing the services in a particular case is not the entity responsible for
25 the case under subsection (1) of this section.

26 (4) When responsible for providing support enforcement services and there
27 is sufficient evidence available to support the action to be taken, the entity
28 described in subsection (1) of this section:

29 (a) Shall establish and enforce any child support obligation;

30 (b) Shall establish paternity;

31 (c) Shall enforce spousal support when the obligee is living with the

1 obligor's child for whom support enforcement services are being provided and
2 those services are funded in part by federal moneys;

3 (d) May enforce any other order or judgment for spousal support;

4 (e) Shall, on behalf of the state, initiate and respond to child support
5 modification proceedings based upon a substantial change of circumstances;

6 (f) Shall, on behalf of the state, initiate and respond to child support
7 modification proceedings based upon a modification conducted under ORS
8 25.287 concerning existing child support orders;

9 (g) Shall establish and enforce obligations to provide medical insurance
10 coverage for dependent children;

11 (h) Shall ensure compliance with the provisions of 42 U.S.C. 651 to 669
12 and 45 C.F.R. Chapter III as authorized by state law;

13 (i) Shall carry out the policy of the State of Oregon regarding child sup-
14 port obligations as expressed in ORS 416.405; and

15 (j) Shall ensure that child support orders are in compliance with the for-
16 mula established by this chapter.

17 (5) In any proceeding under subsection (4) of this section, the parties are
18 those described in ORS 416.407.

19 (6) The district attorney of any county and the department may provide
20 by agreement for assumption by the Division of Child Support of the func-
21 tions of the district attorney under subsection (1) of this section or for re-
22 distribution between the district attorney and the Division of Child Support
23 of all or any portion of the duties, responsibilities and functions set forth in
24 subsections (1) and (4) of this section.

25 (7) All county governing bodies and all district attorneys shall enter into
26 child support cooperative agreements with the department. The following
27 apply to this subsection:

28 (a) The agreements shall contain appropriate terms and conditions suffi-
29 cient for the state to comply with all child support enforcement service re-
30 quirements under federal law; and

31 (b) If this state loses any federal funds due to the failure of a county

1 governing body or district attorney to either enter into an agreement under
2 this subsection or to provide sufficient support enforcement service, the
3 county shall be liable to the department for, and the liability shall be limited
4 to, the amount of money the state determines it lost because of the failure.
5 The state shall offset the loss from any moneys the state is holding for or
6 owes the county or from any moneys the state would pay to the county for
7 any purpose.

8 (8) The Department of Justice shall enter into an agreement with the
9 Oregon District Attorneys Association to establish a position or positions to
10 act as a liaison between the Division of Child Support and those district
11 attorneys who provide support enforcement services under this section. The
12 department shall fund the position or positions. The Oregon District Attor-
13 neys Association shall administer the liaison position or positions under the
14 agreement. The liaison shall work to:

15 (a) Enhance the participation and interaction of the district attorneys in
16 the development and implementation of Child Support Program policies and
17 services; and

18 (b) Increase the effectiveness of child support enforcement services pro-
19 vided by the district attorneys.

20 (9) The district attorney or the Division of Child Support, whichever is
21 appropriate, shall provide the services specified in subsections (1) and (4) of
22 this section to any applicant, but may in their discretion, upon a determi-
23 nation and notice to the applicant that the prospect of successful recovery
24 from the obligor of a portion of the delinquency or future payments is re-
25 mote, require payment to the district attorney or the Division of Child Sup-
26 port of an application fee, in accordance with an application fee schedule
27 established by rule by the department. If service performed results in the
28 district attorney or the Division of Child Support recovering any support
29 enforcement fees, the fees shall be paid to the applicant in an amount equal
30 to the amount of the application fee.

31 (10) An obligee may request the Division of Child Support or a district

1 attorney to cease all collection efforts if it is anticipated that physical or
 2 emotional harm will be caused to the parent or caretaker relative or the
 3 child for whom support was to have been paid. The department, by rule, shall
 4 set out the circumstances under which such requests shall be honored.

5 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
 6 propriate series reference in (2).

7 **SECTION 9.** ORS 25.085 is amended to read:

8 25.085. (1) In any proceeding under ORS 25.080, service of legal documents
 9 upon an obligee may be by regular mail to the address at which the obligee
 10 receives public assistance, to an address provided by the obligee on the
 11 obligee's application for child support enforcement services or to any other
 12 address given by the obligee. When service is authorized by regular mail
 13 under this section, proof of service may be by notation upon the computer-
 14 ized case record made by the person making the mailing. The notation must
 15 set forth the address to which the documents were mailed, the date they were
 16 mailed, the description of the documents mailed and the name of the person
 17 making the notation. If the documents are returned by the postal service
 18 as undeliverable as addressed, that fact must be noted on the computerized
 19 case record. If no new address for service by regular mail can be obtained,
 20 service must be by certified mail, return receipt requested, by personal ser-
 21 vice upon the obligee, or by any other mail service with delivery confirma-
 22 tion.

23 (2) Notwithstanding any other provision of **ORS 416.400 to 416.465** or this
 24 chapter or ORS chapter 110 [*or 416*], when a case is referred to this state by
 25 a public child support agency of another state for action in this state, there
 26 is no requirement that an obligee, present in the initiating state and re-
 27 ceiving child support enforcement services from that state, be served in any
 28 action taken in this state as a consequence of the interstate referral. In such
 29 cases the requirement to serve the obligee that would otherwise apply is
 30 satisfied by sending to the initiating agency in the other state, by regular
 31 mail, any documents that would otherwise be served upon the obligee.

1 (3) The appropriate child support agency of the state shall make any
2 mailings to or service upon the obligee that is required by this section.

3 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
4 propriate series reference in (2).

5 **SECTION 10.** ORS 25.089 is amended to read:

6 25.089. (1) As used in this section, “child support judgment” means the
7 terms of a judgment or order of a court, or an order that has been filed under
8 ORS 416.440, that provide for past or current child support, including medical
9 support as defined in ORS 25.321. “Child support judgment” does not include
10 any term of a judgment or order that deals with matters other than child
11 support.

12 (2)(a) A child support judgment originating under ORS 416.440 has all the
13 force, effect and attributes of a circuit court judgment. The judgment lien
14 created by a child support judgment originating under ORS 416.440 applies
15 to all arrearages owed under the underlying order from the date the admin-
16 istrator or administrative law judge entered, filed or registered the underly-
17 ing order under ORS 416.400 to 416.465 or ORS chapter 110.

18 (b) Until the underlying order is filed under ORS 416.440, the order may
19 not be enforced against and has no lien effect on real property.

20 (c) No action to enforce a child support judgment originating under ORS
21 416.440 may be taken while the child support judgment is stayed under ORS
22 416.427, except as permitted in the order granting the stay.

23 (3) In any judicial or administrative proceeding in which child support
24 may be awarded under this chapter or ORS chapter 107, 108, 109[,] **or** 110 or
25 [*416 or*] ORS 125.025, **416.400 to 416.465**, 419B.400 or 419C.590, if a child
26 support judgment already exists with regard to the same obligor and child:

27 (a) A court may only enforce the existing child support judgment, modify
28 the existing child support judgment as specifically authorized by law or set
29 aside the existing child support judgment under subsection (6) of this section
30 or under the provisions of ORCP 71. If the court sets aside the existing child
31 support judgment, the court may issue a new child support judgment.

1 (b) The administrator or administrative law judge may only enforce the
2 existing child support judgment, modify the existing child support judgment
3 as specifically authorized by law or, with regard to an existing child support
4 judgment originating under ORS 416.400, move to set aside the existing child
5 support judgment under subsection (6) of this section or for the reasons set
6 out in ORCP 71.

7 (4) If the administrator or administrative law judge finds that there exist
8 two or more child support judgments involving the same obligor and child
9 and the same period of time, the administrator or administrative law judge
10 shall apply the provisions of ORS 416.448.

11 (5)(a) If the court finds that there exist two or more child support judg-
12 ments involving the same obligor and child and the same period of time, and
13 each judgment was issued in this state, the court shall apply the provisions
14 of ORS 25.091 to determine the controlling terms of the child support judg-
15 ments and to issue a governing child support judgment as defined in ORS
16 25.091.

17 (b) If the court finds that there exist two or more child support judgments
18 involving the same obligor and child and the same period of time, and one
19 or more of the judgments was issued by a tribunal of another state, the court
20 shall apply the provisions of ORS chapter 110 to determine which judgment
21 is the controlling child support order.

22 (6) Subject to the provisions of subsection (3) of this section, a court may
23 modify or set aside a child support judgment issued in this state when:

24 (a) The child support judgment was issued without prior notice to the
25 issuing court, administrator or administrative law judge that:

26 (A) There was pending in this state or any other jurisdiction any type of
27 support proceeding involving the child; or

28 (B) There existed in this state or any other jurisdiction another child
29 support judgment involving the child; or

30 (b) The child support judgment was issued after another child support
31 judgment, and the later judgment did not enforce, modify or set aside the

1 earlier judgment in accordance with this section.

2 (7) When modifying a child support judgment, the court, administrator or
3 administrative law judge shall specify in the modification judgment the ef-
4 fects of the modification on the child support judgment being modified.

5 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
6 propriate series reference in (3).

7 **SECTION 11.** ORS 25.091 is amended to read:

8 25.091. (1) As used in this section:

9 (a) “Child support judgment” has the meaning given that term in ORS
10 25.089.

11 (b) “Governing child support judgment” means a child support judgment
12 issued in this state that addresses child support, including medical support
13 as defined in ORS 25.321, and is entitled to exclusive prospective enforcement
14 or modification with respect to any earlier child support judgment issued in
15 this state.

16 (2) Notwithstanding any other provision of this section or ORS 25.089,
17 when two or more child support judgments exist involving the same obligor
18 and child and one or more of the judgments was issued by a tribunal of an-
19 other state, the court shall apply the provisions of ORS chapter 110 before
20 enforcing or modifying a judgment under this section or ORS 25.089.

21 (3) When two or more child support judgments exist involving the same
22 obligor and child and the same period, any party to one or more of the child
23 support judgments or the administrator, under ORS 416.448, may file a peti-
24 tion with the court for a governing child support judgment under this sec-
25 tion. When a matter involving a child is before the court and the court finds
26 that two or more child support judgments exist involving the same obligor
27 and child and the same period, the court on its own motion, and after notice
28 to all affected parties, may determine the controlling terms of the child
29 support judgments and issue a governing child support judgment under this
30 section.

31 (4)(a) Except as provided in paragraph (b) of this subsection, when two

1 or more child support judgments exist involving the same obligor and child
2 and the same period, and each judgment was issued in this state, there is a
3 presumption that the terms of the last-issued child support judgment are the
4 controlling terms and terminate contrary terms of each earlier-issued child
5 support judgment.

6 (b) If the earlier-issued child support judgment requires provision of a
7 specific type of child support and the last-issued child support judgment is
8 silent with respect to that type of child support, the requirement of the
9 earlier-issued child support judgment continues in effect.

10 (5) A party may rebut the presumption in subsection (4) of this section
11 by showing that:

12 (a) The last-issued child support judgment should be set aside under the
13 provisions of ORCP 71;

14 (b) The last-issued child support judgment was issued without prior notice
15 to the issuing court, administrator or administrative law judge that:

16 (A) There was pending in this state or any other jurisdiction any type of
17 support proceeding involving the child; or

18 (B) There existed in this state or any other jurisdiction another child
19 support judgment involving the child; or

20 (c) The last-issued child support judgment was issued after an earlier
21 child support judgment and did not enforce, modify or set aside the earlier
22 child support judgment in accordance with ORS 25.089.

23 (6) When a court finds that two or more child support judgments exist
24 involving the same obligor and child and the same period, and each child
25 support judgment was issued in this state, the court shall set the matter for
26 hearing to determine the controlling terms of the child support judgments.
27 When the child support judgments were issued in different counties of this
28 state, the court may designate an auxiliary court under ORS 25.100.

29 (7) Following a review of each child support judgment and any other ev-
30 idence admitted by the court:

31 (a) The court shall apply the presumption in subsection (4) of this section,

1 unless the presumption is rebutted, and shall determine the controlling terms
2 of the child support judgments; and

3 (b) Notwithstanding ORS 25.089 (3), the court shall issue a governing
4 child support judgment addressing child support, including medical support
5 as defined in ORS 25.321, for the benefit of the child.

6 (8) The governing child support judgment must include:

7 (a) A reference to each child support judgment considered and a copy of
8 the judgment;

9 (b) A determination of which terms regarding child support, including
10 medical support as defined in ORS 25.321, are controlling and which child
11 support judgment or judgments contain those terms;

12 (c) An affirmation, termination or modification of the terms regarding
13 child support, including medical support as defined in ORS 25.321, in each
14 of the child support judgments;

15 (d) Except as provided in subsection (9) of this section, a reconciliation
16 of any child support arrears or credits under all of the child support judg-
17 ments; and

18 (e) The effective date of each controlling term and the termination date
19 of each noncontrolling term in each of the child support judgments. In de-
20 termining these dates, the court may apply the following:

21 (A) A controlling term is effective on the date specified in the child sup-
22 port judgment containing that term or, if no date is specified, on the date
23 the child support judgment was entered as described in ORS 18.075.

24 (B) A noncontrolling term is terminated on the date the governing child
25 support judgment is entered as described in ORS 18.075.

26 (9) The court may order the parties, in a separate proceeding under ORS
27 25.167 or 416.429, to reconcile any child support arrears or credits under all
28 of the child support judgments.

29 (10) When the governing child support judgment is entered as described
30 in ORS 18.075, the noncontrolling terms of each earlier child support judg-
31 ment are terminated. However, subject to subsection (11) of this section, the

1 entry of the governing child support judgment does not affect any child
 2 support payment arrearage or any liability related to medical support, as
 3 defined in ORS 25.321, that has accrued under a child support judgment be-
 4 fore the governing child support judgment is entered.

5 (11) For purposes of reconciling any child support arrears or credits under
 6 all of the child support judgments, amounts collected and credited for a
 7 particular period under one child support judgment must be credited against
 8 the amounts accruing or accrued for the same period under any other child
 9 support judgment.

10 (12) Not sooner than 30 days and not later than 60 days after entry of the
 11 governing child support judgment, a party named by the court, or the
 12 petitioner if the court names no other party, shall file a copy of the gov-
 13 erning child support judgment with each court or the administrator that is-
 14 sued an earlier child support judgment. A party who fails to file a copy of
 15 the governing child support judgment as required by this subsection is sub-
 16 ject to monetary sanctions, including but not limited to attorney fees, costs
 17 and disbursements. A failure to file does not affect the validity or
 18 enforceability of the governing child support judgment.

19 (13) This section applies to any judicial proceeding in which child support
 20 may be awarded or modified under this chapter or ORS chapter 107, 108[,]
 21 **or** 109 or [416 or] ORS 125.025, **416.400 to 416.465**, 419B.400, 419B.923,
 22 419C.590 or 419C.610.

23 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
 24 propriate series reference in (13).

25 **SECTION 12.** ORS 25.166 is amended to read:

26 25.166. (1) Any court order or administrative order issued or modified in
 27 a proceeding under **ORS 416.400 to 416.465 or** ORS chapter 107, 108, 109, 110,
 28 [416,] 419B or 419C that contains an order for the payment of child support
 29 or spousal support must specify an initial due date and year for the payment
 30 of support that is on the first day of a calendar month, with subsequent
 31 payments due on the first day of each subsequent month for which the sup-

1 port is payable.

2 (2) For purposes of support enforcement, any support payment that be-
3 comes due and payable on a day other than the first day of the month in
4 which the payment is due shall be enforceable by income withholding as of
5 the first day of that month.

6 (3) Any court order or administrative order that contains an award of
7 child, medical or spousal support that accrues on other than a monthly basis
8 may, for income withholding and administrative support billing purposes
9 only, be converted to a monthly amount.

10 (4) Support payments become delinquent only if not paid in full within
11 one month of the payment due date. A monthly child support obligation that
12 is to be paid in two or more installments does not become delinquent until
13 the obligation is not paid in full by the due date for the first installment in
14 the next month.

15 (5) Subsections (2) and (3) of this section do not apply to the determi-
16 nation or issuance of support arrearage liens, installment arrearage liens,
17 judgment liens, writs of garnishment or any other action or proceeding that
18 affects property rights under ORS chapter 18.

19 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
20 propriate series reference in (1).

21 **SECTION 13.** ORS 25.240 is amended to read:

22 25.240. Notwithstanding any other law, [*where*] **when** a court or the ad-
23 ministrator has the authority under ORS chapter 107, 108, 109[,] **or** 110 or
24 [*416 or*] ORS **416.400 to 416.465**, 419B.400 to 419B.406 or 419C.590, 419C.592
25 and 419C.597 to require a parent without legal custody to pay support for a
26 minor child, [*then*] the court or administrator may require a parent with le-
27 gal custody to pay support for [*such a*] **the** child as long as that parent does
28 not have physical custody of [*such*] **the** child or is not providing the child
29 with the necessities of life, including but not limited to lodging, food and
30 clothing.

31 **NOTE:** Updates syntax; eliminates inappropriate chapter reference and

1 substitutes appropriate series reference.

2 **SECTION 14.** ORS 25.280 is amended to read:

3 25.280. In any judicial or administrative proceeding for the establishment
4 or modification of a child support obligation under ORS chapter 107, 108,
5 109[,] **or** 110 or [416 or] ORS **416.400 to 416.465**, 419B.400, 419B.923, 419C.590
6 or 419C.610, the amount of support determined by the formula established
7 under ORS 25.275 is presumed to be the correct amount of the obligation.
8 This is a rebuttable presumption and a written finding or a specific finding
9 on the record that the application of the formula would be unjust or inap-
10 propriate in a particular case is sufficient to rebut the presumption. The
11 following criteria shall be considered in making the finding:

- 12 (1) Evidence of the other available resources of a parent;
- 13 (2) The reasonable necessities of a parent;
- 14 (3) The net income of a parent remaining after withholdings required by
15 law or as a condition of employment;
- 16 (4) A parent's ability to borrow;
- 17 (5) The number and needs of other dependents of a parent;
- 18 (6) The special hardships of a parent including, but not limited to, any
19 medical circumstances of a parent affecting the parent's ability to pay child
20 support;
- 21 (7) The needs of the child;
- 22 (8) The desirability of the custodial parent remaining in the home as a
23 full-time parent and homemaker;
- 24 (9) The tax consequences, if any, to both parents resulting from spousal
25 support awarded and determination of which parent will name the child as
26 a dependent; and
- 27 (10) The financial advantage afforded a parent's household by the income
28 of a spouse or another person with whom the parent lives in a relationship
29 similar to that of a spouse.

30 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
31 propriate series reference in lead-in.

1 **SECTION 15.** ORS 25.287 is amended to read:

2 25.287. (1)(a) The entity providing support enforcement services under
3 ORS 25.080 may initiate proceedings to modify a support obligation to ensure
4 that the support obligation is in accordance with the formula established
5 under ORS 25.275.

6 (b) Proceedings under this subsection may occur only after three years
7 have elapsed, or such shorter cycle as determined by rule of the Department
8 of Justice, from the later of the following:

9 (A) The date the original support obligation took effect;

10 (B) The date any previous modification of the support obligation took ef-
11 fect; or

12 (C) The date of any previous review and determination under this sub-
13 section that resulted in no modification of the support obligation.

14 (c) For purposes of paragraph (b) of this subsection, a support obligation
15 or modification takes effect on the first date on which the obligor is to pay
16 the established or modified support amount.

17 (d) The only issues at proceedings under this subsection are whether three
18 years have elapsed, or such shorter cycle as determined by rule of the de-
19 partment, and whether the support obligation is in substantial compliance
20 with the formula established under ORS 25.275.

21 (e) Upon review, if the administrator determines that a support obligation
22 does not qualify for modification under this section, a party may object to
23 the determination within 30 days after the date of the determination. A
24 hearing on the objection shall be conducted by an administrative law judge
25 assigned from the Office of Administrative Hearings. Appeal of the order of
26 the administrative law judge may be taken to the circuit court of the county
27 in which the support obligation has been entered or registered for a hearing
28 de novo. The appeal to the court shall be by petition for review filed within
29 60 days after entry of the order of the administrative law judge.

30 (f) If the court, the administrator or the administrative law judge finds
31 that more than three years have elapsed, or such shorter cycle as determined

1 by rule of the department, the court, the administrator or the administrative
2 law judge shall modify the support order to bring the support obligation into
3 substantial compliance with the formula established under ORS 25.275, re-
4 gardless of whether there has been a substantial change in circumstances
5 since the support obligation was last established, modified or reviewed. Pro-
6 ceedings by the administrator or administrative law judge under this sub-
7 section shall be conducted according to the provisions of ORS 416.425 and
8 416.427.

9 (g) The provisions of this subsection apply to any support obligation es-
10 tablished by a support order under this chapter or ORS chapter 107, 108,
11 109[,] **or** 110 or [416 or] **ORS 416.400 to 416.465**, 419B.400 or 419C.590.

12 (2) The entity providing support enforcement services shall state in the
13 document initiating the proceeding, to the extent known:

14 (a) Whether there is pending in this state or any other jurisdiction any
15 type of support proceeding involving the child, including a proceeding
16 brought under ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165,
17 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

18 (b) Whether there exists in this state or any other jurisdiction a support
19 order, as defined in ORS 110.503, involving the child, other than the support
20 obligation the entity seeks to modify.

21 (3) The entity providing support enforcement services shall include with
22 the document initiating the proceeding a certificate regarding any pending
23 support proceeding and any existing support order other than the support
24 obligation the entity seeks to modify. The entity providing support enforce-
25 ment services shall use a certificate that is in a form prescribed by the ad-
26 ministrator and shall include information required by the administrator and
27 subsection (2) of this section.

28 (4) The administrator, court or administrative law judge may use the
29 provisions of subsection (1) of this section when a support order was entered
30 in another state and registered in Oregon, the provisions of ORS chapter 110
31 apply and more than three years have elapsed, or such shorter cycle as de-

1 terminated by rule of the department.

2 (5) Notwithstanding the provisions of this section, proceedings may be
3 initiated at any time to modify a support obligation based upon a substantial
4 change of circumstances under any other provision of law.

5 (6) The obligee is a party to any action to modify a support obligation
6 under this section.

7 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
8 propriate series reference in (1)(g).

9 **SECTION 16.** ORS 25.399 is amended to read:

10 25.399. (1) When an order to withhold is issued under ORS 25.378, the
11 party or entity initiating the action shall send notice of the order to with-
12 hold to the obligor by regular mail to the last-known [addresses] **address** of
13 the obligor. The notice must state:

14 (a) That withholding has commenced;

15 (b) The amount to be withheld and the amount of arrears, if any;

16 (c) That the order to withhold applies to any current or subsequent
17 withholder or period of employment;

18 (d) The procedures available for contesting the withholding and that the
19 only basis for contesting the withholding is a mistake of fact, which means
20 an error in the amount of current support or arrearages, or an error in the
21 identity of the obligor;

22 (e) The availability of and requirements for exceptions to withholding;

23 (f) That the obligor has 30 days from the date that the income is first
24 withheld pursuant to the order to withhold to contest the withholding; and

25 (g) The actions that will be taken if the obligor contests the withholding.

26 (2) The notice requirement of subsection (1) of this section may be met
27 by mailing a copy of the order to withhold, by regular mail, to the obligor.

28 **NOTE:** Corrects word choice in (1).

29 **SECTION 17.** ORS 25.720 is amended to read:

30 25.720. (1) Except as provided in ORS 25.125, 412.024, 418.032, 419B.406 or
31 419C.597 or subsection (2) of this section, the right to receive child or

1 spousal support payments under **ORS 416.400 to 416.465 and** ORS chapters
2 107, 108, 109, 110, [416,] 419B and 419C is not assignable, and any transaction
3 in violation of this section is void.

4 (2) Notwithstanding the provisions of subsection (1) of this section, the
5 right to receive support payments is assignable as may be appropriate for the
6 protection of a minor or other person for whom a fiduciary has been ap-
7 pointed under ORS chapter 125 or for whom a trust has been established.

8 (3) A person may not solicit or accept the assignment of support rights
9 under subsection (1) of this section.

10 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
11 propriate series reference in (1).

12 **SECTION 18.** ORS 30.136 is amended to read:

13 30.136. (1) As used in this section and ORS 30.138, “servicemember” has
14 the meaning given that term in 50 U.S.C. [App. 511] **3911** as in effect on
15 May 8, 2009.

16 (2) An action brought by a servicemember to enforce a right or remedy
17 under 50 U.S.C. [App. 501] **3901** et seq. is not subject to court-ordered arbi-
18 tration under ORS 36.400 to 36.425 unless the parties to the action stipulate
19 in writing to arbitration after the action is commenced.

20 (3) In addition to the counties specified in ORS 14.080, an action brought
21 by a servicemember to enforce a right or remedy under 50 U.S.C. [App. 501]
22 **3901** et seq. may be brought in the Oregon county where the servicemember
23 resides or where the servicemember was a resident at the time of bringing
24 the action.

25 (4) Any contract term or provision providing for a choice of forum other
26 than Oregon in an agreement entered into by a servicemember who resides
27 in Oregon or is a resident of Oregon is voidable at the election of the
28 servicemember.

29 **NOTE:** Adjusts references to reflect federal code reorganization in (1), (2)
30 and (3).

31 **SECTION 19.** ORS 30.138 is amended to read:

1 30.138. (1) In addition to any other remedy payable to a servicemember for
2 the enforcement of a right under 50 U.S.C. [App. 501] **3901** et seq., a court
3 shall award a servicemember reasonable attorney fees and the amounts
4 specified in subsection (2) of this section if the court finds that written de-
5 mand as described in subsection (3) of this section was mailed to the oppos-
6 ing party demanding relief under 50 U.S.C. [App. 501] **3901** et seq., and the
7 opposing party failed to remedy the violation of 50 U.S.C. [App. 501] **3901**
8 et seq. within 30 days after the mailing of the demand.

9 (2) If a court finds that notice was mailed as required by this section, and
10 the opposing party failed to remedy the violation of 50 U.S.C. [App. 501] **3901**
11 et seq. within the time allowed, the court shall award the servicemember:

12 (a) The greater of \$1,000 or actual damages, including damages for emo-
13 tional distress; or

14 (b) If the court finds that the opposing party's conduct was willful, as
15 described in ORS 646.605, the court shall award the servicemember the
16 greater of \$5,000[,] or three times the amount of actual damages, including
17 damages for emotional distress.

18 (3) A written demand under subsection (1) of this section must be sent
19 by certified mail, return receipt requested. The demand must include the
20 servicemember's name and address, the date on which the servicemember
21 went on active duty and a description of the alleged violation of 50 U.S.C.
22 [App. 501] **3901** et seq.

23 **NOTE:** Adjusts references to reflect federal code reorganization in (1), (2)
24 and (3); corrects punctuation in (2)(b).

25 **SECTION 20.** ORS 40.210 is amended to read:

26 40.210. (1) Notwithstanding any other provision of law, in a prosecution
27 for a crime described in ORS 163.266 (1)(b) or (c), 163.355 to 163.427, 163.670
28 or 167.017, in a prosecution for an attempt to commit one of those crimes or
29 in a proceeding conducted under ORS 163.760 to 163.777, the following evi-
30 dence is not admissible:

31 (a) Reputation or opinion evidence of the past sexual behavior of an al-

1 leged victim or a corroborating witness; or

2 (b) Reputation or opinion evidence presented for the purpose of showing
3 that the manner of dress of an alleged victim incited the crime or, in a pro-
4 ceeding under ORS 163.760 to 163.777, incited the sexual abuse, or indicated
5 consent to the sexual acts that are alleged.

6 (2) Notwithstanding any other provision of law, in a prosecution for a
7 crime or an attempt to commit a crime listed in subsection (1) of this section
8 or in a proceeding conducted under ORS 163.760 to 163.777, evidence of an
9 alleged victim's past sexual behavior other than reputation or opinion evi-
10 dence is also not admissible, unless the evidence other than reputation or
11 opinion evidence:

12 (a) Is admitted in accordance with subsection (4) of this section; and

13 (b) Is evidence that:

14 (A) Relates to the motive or bias of the alleged victim;

15 (B) Is necessary to rebut or explain scientific or medical evidence offered
16 by the state; or

17 (C) Is otherwise constitutionally required to be admitted.

18 (3) Notwithstanding any other provision of law, in a prosecution for a
19 crime or an attempt to commit a crime listed in subsection (1) of this section
20 or in a proceeding conducted under ORS 163.760 to 163.777, evidence, other
21 than reputation or opinion evidence, of the manner of dress of the alleged
22 victim or a corroborating witness, presented by a person accused of com-
23 mitting the crime or, in a proceeding conducted under ORS 163.760 to 163.777,
24 by the respondent, is also not admissible, unless the evidence [*is*]:

25 (a) **Is** admitted in accordance with subsection (4) of this section; and

26 (b) Is evidence that:

27 (A) Relates to the motive or bias of the alleged victim;

28 (B) Is necessary to rebut or explain scientific, medical or testimonial ev-
29 idence offered by the state;

30 (C) Is necessary to establish the identity of the alleged victim; or

31 (D) Is otherwise constitutionally required to be admitted.

1 (4)(a) If the person accused of a crime or an attempt to commit a crime
2 listed in subsection (1) of this section, or the respondent in a proceeding
3 conducted under ORS 163.760 to 163.777, intends to offer evidence under
4 subsection (2) or (3) of this section, the accused or the respondent shall make
5 a written motion to offer the evidence not later than 15 days before the date
6 on which the trial in which the evidence is to be offered is scheduled to be-
7 gin, except that the court may allow the motion to be made at a later date,
8 including during trial, if the court determines either that the evidence is
9 newly discovered and could not have been obtained earlier through the ex-
10 ercise of due diligence or that the issue to which the evidence relates has
11 newly arisen in the case. Any motion made under this paragraph shall be
12 served on all other parties and, in a criminal proceeding, on the alleged
13 victim through the office of the prosecutor.

14 (b) The motion described in paragraph (a) of this subsection shall be ac-
15 companied by a written offer of proof. If the court determines that the offer
16 of proof contains evidence described in subsection (2) or (3) of this section,
17 the court shall order a hearing in camera to determine if the evidence is
18 admissible. At the hearing the parties may call witnesses, including the al-
19 leged victim, and offer relevant evidence. Notwithstanding ORS 40.030 (2), if
20 the relevancy of the evidence that the accused or the respondent seeks to
21 offer in the trial depends upon the fulfillment of a condition of fact, the
22 court, at the hearing in camera or at a subsequent hearing in camera
23 scheduled for the same purpose, shall accept evidence on the issue of whether
24 the condition of fact is fulfilled and shall determine the issue.

25 (c) If the court determines on the basis of the hearing described in para-
26 graph (b) of this subsection that the evidence the accused or the respondent
27 seeks to offer is relevant and that the probative value of the evidence out-
28 weighs the danger of unfair prejudice, the evidence shall be admissible in the
29 trial to the extent an order made by the court specifies evidence that may
30 be offered and areas with respect to which a witness may be examined or
31 cross-examined.

1 (d) An order admitting evidence under this subsection in a criminal
2 prosecution may be appealed by the state before trial.

3 (5) For purposes of this section:

4 (a) "Alleged victim" includes the petitioner in a proceeding conducted
5 under ORS 163.760 to 163.777.

6 (b) "In camera" means out of the presence of the public and the jury.

7 (c) "Past sexual behavior" means sexual behavior other than:

8 (A) The sexual behavior with respect to which the crime or attempt to
9 commit the crime listed in subsection (1) of this section is alleged; or

10 (B) In a proceeding conducted under ORS 163.760 to 163.777, the alleged
11 sexual abuse.

12 (d) "Trial" includes a hearing conducted under ORS 163.760 to 163.777.

13 **NOTE:** Corrects read-in in (3).

14 **SECTION 21.** ORS 86.610 is amended to read:

15 86.610. Financial institutions as defined in ORS 706.008, trustees, guardi-
16 ans, conservators, executors, administrators, other fiduciaries and all other
17 persons, associations and corporations, subject to the laws of this state, may
18 make such loans, secured by real property or leasehold, as the Federal
19 Housing [Administrator] **Administration** insures or makes a commitment to
20 insure, and may obtain such insurance.

21 **NOTE:** Corrects name of federal agency.

22 **SECTION 22.** ORS 86.620 is amended to read:

23 86.620. Financial institutions as defined in ORS 706.008, trustees, guardi-
24 ans, conservators, executors, administrators, other fiduciaries and all other
25 persons, associations and corporations, subject to the laws of this state, may
26 invest their funds, and the money in their custody or possession, eligible for
27 investment, in bonds and mortgages on real property insured by the Federal
28 Housing [Administrator] **Administration**, in debentures issued by the Fed-
29 eral Housing [Administrator] **Administration**, and in obligations of national
30 mortgage associations.

31 **NOTE:** Corrects name of federal agency.

1 **SECTION 23. ORS 92.104 is added to and made a part of ORS chapter**
2 **92.**

3 **NOTE:** Adds statute to appropriate chapter.

4 **SECTION 24.** ORS 98.852 is amended to read:

5 98.852. As used in ORS 98.853 to 98.862:

6 (1) “Business day” means Mondays through Friday, excluding legal holi-
7 days.

8 (2) “Consideration” has the meaning given that term in ORS 171.725.

9 (3) “Law enforcement agency” has the meaning given that term in ORS
10 131.915.

11 (4) “Motor vehicle” has the meaning given that term in ORS 801.360.

12 (5) “Parking facility” has the meaning given that term in ORS 98.805.

13 (6) “Personal property of an emergency nature” includes, but is not lim-
14 ited to, prescription medication, eyeglasses, **hearing aids**, clothing, identifi-
15 cation, a wallet, a purse, a credit card, a checkbook, cash and child safety
16 car and booster seats.

17 (7) “Tower” means a person that:

18 (a) Owns or operates a tow vehicle for profit; or

19 (b) Is employed by a person that owns or operates a tow vehicle for profit.

20 (8) “Tow vehicle” has the meaning given that term in ORS 801.530.

21 **NOTE:** Conforms definition in (6) with amendments to ORS 98.858 by
22 section 8, chapter 523, Oregon Laws 2017.

23 **SECTION 25.** ORS 98.858 is amended to read:

24 98.858. (1) A tower in physical possession of a motor vehicle shall permit
25 the owner or person in lawful possession of a motor vehicle the tower has
26 towed to:

27 (a) Redeem or inspect the motor vehicle:

28 (A) Between 8 a.m. and 6 p.m. on business days;

29 (B) At all other hours, within 60 minutes after asking the tower to release
30 or allow for the inspection of the motor vehicle; and

31 (C) Within 30 minutes of a time mutually agreed upon between the tower

1 and the owner or person in lawful possession of the motor vehicle;

2 (b) Contact the tower at any time to receive information about the lo-
3 cation of the motor vehicle and instructions for obtaining release of the
4 motor vehicle; and

5 (c) Obtain all personal property of an emergency nature in the motor ve-
6 hicle within the time allowed under paragraph (a) of this subsection.

7 (2) A tower may not charge the owner or person in lawful possession of
8 the motor vehicle a fee in any amount to obtain personal property of an
9 emergency nature except for a gate fee between the hours of 6 p.m. and 8
10 a.m. on business days, or on a Saturday, a Sunday or a legal holiday.

11 *[(3) As used in this section, "personal property of an emergency nature"*
12 *includes but is not limited to prescription medication, eyeglasses, hearing aids,*
13 *clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and*
14 *child safety car and booster seats.]*

15 **NOTE:** Removes duplicative definition in (3) (see section 24, amending
16 ORS 98.852).

17 **SECTION 26.** ORS 107.108 is amended to read:

18 107.108. (1) As used in this section:

19 (a) "Child attending school" means a child of the parties who:

20 (A) Is unmarried;

21 (B) Is 18 years of age or older and under 21 years of age;

22 (C) Is making satisfactory academic progress as defined by the school that
23 the child attends; and

24 (D) Has a course load that is no less than one-half of the load that is
25 determined by the school to constitute full-time enrollment.

26 (b) "Regularly scheduled break" means:

27 (A) A summer semester or term;

28 (B) A period of time not exceeding four months between graduation from
29 or completion of school and the beginning of the next regularly scheduled
30 term, semester or course of study at school;

31 (C) A period of time between the end and beginning of regularly scheduled

1 consecutive school semesters, terms or courses of study; or

2 (D) Any other scheduled break between courses of study that is defined
3 by the school as a regularly scheduled break.

4 (c) "School" means:

5 (A) An educational facility such as a high school, community college,
6 four-year college or university;

7 (B) A course of professional, vocational or technical training, including
8 the Job Corps, designed to fit the child for gainful employment; or

9 (C) A high school equivalency course, including but not limited to a
10 General Educational Development (GED) program, an educational program
11 for grade 12 or below and home schooling.

12 (2) A support order entered or modified under **ORS 416.400 to 416.465** or
13 this chapter or [*under*] ORS chapter 25, 108, 109, 110, 125, [*416,*] 419B or 419C
14 may require either parent, or both of them, to provide for the support or
15 maintenance of a child attending school.

16 (3) Notwithstanding ORS 416.407, a child attending school is a party to
17 any legal proceeding related to the support order. A child attending school
18 may:

19 (a) Apply for services under ORS 25.080:

20 (A) If a support order provides for the support or maintenance of the child
21 attending school; or

22 (B) In accordance with rules adopted by the Department of Justice;

23 (b) Request a judicial or administrative modification of the child support
24 amount or may receive notice of and participate in any modification pro-
25 ceeding; and

26 (c) Agree, in the same manner as an obligee under ORS 25.020 (12), that
27 payments not made to the Department of Justice should be credited for
28 amounts that would have been paid to the child attending school if the
29 payments had been made to the department.

30 (4) Regardless of whether the child is a child attending school, an un-
31 married child who is 18 years of age or older and under 21 years of age:

1 (a) Is a necessary party to a judicial proceeding under ORS 107.085,
2 107.135, 107.431, 108.110, 109.103 or 109.165 in which the child's parents are
3 parties and the court has authority to order or modify support for a child
4 attending school; and

5 (b) May request notice of any proceeding initiated by the administrator
6 to modify a support order that may affect the child's rights as a child at-
7 tending school. To receive notice, the child shall provide an address to the
8 administrator, and the administrator shall notify the child of any modifica-
9 tion proceeding by first class mail. To be a party to a proceeding, the child
10 must send a written request to the administrator within 30 days after the
11 date of the notice of the proceeding.

12 (5)(a) If a support order provides for the support or maintenance of a child
13 attending school and the child qualifies as a child attending school, unless
14 good cause is found for the distribution of the payment to be made in some
15 other manner, support shall be distributed to the child if services are being
16 provided under ORS 25.080 or shall be paid directly to the child if those
17 services are not being provided.

18 (b) Unless otherwise ordered by the court, administrator or administrative
19 law judge, when there are multiple children for whom support is ordered, the
20 amount distributed or paid directly to a child attending school is a prorated
21 share based on the number of children for whom support is ordered. How-
22 ever, if, due to a parenting time or split custody arrangement, support was
23 not paid to the parent having primary physical custody of the child before
24 the child turned 18 years of age, support may not be distributed or paid di-
25 rectly to the child attending school unless the support order is modified.

26 (c) The Department of Justice shall adopt rules to define good cause and
27 circumstances under which the administrator or administrative law judge
28 may allocate support by other than a prorated share and to determine how
29 support is to be allocated in those circumstances.

30 (6)(a) For support payments to continue to be distributed or paid directly
31 to the child attending school, the child shall provide to each parent ordered

1 to pay support and, if services are being provided under ORS 25.080, to the
2 department:

3 (A) Written notice of the child's intent to attend or continue to attend
4 school. The child shall provide the notice before reaching 18 years of age.
5 The notice must include the name of the school and the expected graduation
6 date or date when the child will stop attending classes. If the child changes
7 schools, the child shall provide the information required by this subsection
8 concerning the subsequent school before the expected graduation date or date
9 when the child will stop attending classes at the previous school.

10 (B) Written consent that:

11 (i) Is directed to the child's school and is in a form consistent with state
12 and federal requirements that restrict disclosure of student records;

13 (ii) Gives the school authority to disclose to each parent ordered to pay
14 support the child's enrollment status, whether the child is maintaining sat-
15 isfactory academic progress, a list of courses in which the child is enrolled
16 and the child's grades; and

17 (iii) States that the disclosure is for the purpose of permitting each parent
18 to verify the child's compliance with the requirements of this section.

19 (b) The child shall provide the written consent form described in para-
20 graph (a)(B) of this subsection within 30 days after the beginning of the first
21 term or semester after the child reaches 18 years of age, at the beginning
22 of each academic year thereafter and as otherwise required by the school to
23 disclose the information under this section.

24 (c) If an order of nondisclosure of information has been entered concern-
25 ing the child under ORS 25.020, the child may provide the information de-
26 scribed in paragraph (a)(B) of this subsection in the manner established by
27 the department by rule.

28 (7) Each parent ordered to pay support shall continue to make support
29 payments, to be distributed or paid directly, to the child during regularly
30 scheduled breaks as long as the child intends to continue attending school
31 the next scheduled term or semester.

1 (8) A parent's obligation to pay support to a child attending school is
2 suspended when:

3 (a) The child has reached 18 years of age and has not provided written
4 notice of the child's intent to attend or continue to attend school, or the
5 child has graduated or reached the date to stop attending classes, as provided
6 under subsection (6)(a)(A) of this section;

7 (b)(A) Services are not being provided under ORS 25.080;

8 (B) The parent has provided the child with a written notice of the
9 parent's intent to stop paying support directly to the child because the child
10 is no longer a child attending school or the child has not provided the
11 written consent required by subsection (6)(a)(B) of this section; and

12 (C) Thirty days have passed since the parent provided the notice to the
13 child and the parent has not received:

14 (i) Written confirmation from the school that the child is enrolled in the
15 school and is a child attending school; or

16 (ii) The written consent from the child as required by subsection (6)(a)(B)
17 of this section;

18 (c)(A) Services are being provided under ORS 25.080;

19 (B) A parent ordered to pay support has provided the department with
20 written notice that the child is no longer a child attending school or that
21 the child has not provided the written consent required by subsection
22 (6)(a)(B) of this section;

23 (C) The department has provided written notice to the child requiring:

24 (i) Written confirmation, on a form developed by the department, from the
25 school that the child is enrolled in the school and is a child attending school;
26 and

27 (ii) Proof that the written consent required by subsection (6)(a)(B) of this
28 section has been provided to the parent ordered to pay support; and

29 (D) Thirty days have passed since the department provided the notice to
30 the child and the department has not received:

31 (i) Written confirmation from the school that the child is enrolled in the

1 school and is a child attending school; or

2 (ii) Proof that the written consent required by subsection (6)(a)(B) of this
3 section has been provided to the parent ordered to pay support.

4 (9) When a parent's support obligation has been suspended under sub-
5 section (8) of this section, the obligation is reinstated:

6 (a) If services are not being provided under ORS 25.080, effective on the
7 date the parent receives written confirmation from the school that the child
8 is enrolled in the school and is a child attending school and receives the
9 written consent from the child as required by subsection (6)(a)(B) of this
10 section; or

11 (b) If services are being provided under ORS 25.080, effective on the date
12 the department receives written confirmation from the school that the child
13 is enrolled in the school and is a child attending school and receives proof
14 that the written consent required by subsection (6)(a)(B) of this section has
15 been provided to the parent ordered to pay support.

16 (10) If a parent ordered to pay support is paying a prorated share under
17 subsection (5) of this section and that obligation is suspended under sub-
18 section (8) of this section, the parent shall pay to the obligee the amount
19 previously paid to the child attending school until such time as the support
20 order is modified. The suspension of a parent's obligation to pay support to
21 a child attending school is a substantial change of circumstances for pur-
22 poses of modifying a support order. In a proceeding to modify a support or-
23 der, the court, administrator or administrative law judge may order a
24 modified amount of support and may order an amount of support to be paid
25 in the event that a support obligation is reinstated under subsection (9) of
26 this section.

27 (11)(a) If services are being provided under ORS 25.080 and the department
28 has suspended a support obligation under subsection (8) of this section or
29 reinstated a support obligation under subsection (9) of this section, a party
30 may request administrative review of the action within 30 days after the date
31 of the notice that the department has suspended or reinstated the support

1 obligation.

2 (b) The department may adopt rules specifying the issues that may be
3 considered on review.

4 (c) A party may appeal the department's decision on review under ORS
5 183.484.

6 (12)(a) Notwithstanding any other provision of this section, if a parent
7 who is required to provide for the support or maintenance of a child at-
8 tending school has established a higher education savings plan for the child's
9 continued education, the court may order payment in accordance with the
10 plan instead of ordering support that would otherwise be distributed or paid
11 directly to the child under this section.

12 (b) If the court orders payment in accordance with the plan, the court
13 may not order compliance with or payment of that provision of the order
14 through the department.

15 (c) As used in this subsection, "higher education savings plan" means a
16 tax-advantaged account established by a parent on behalf of a child for the
17 purpose of paying qualified higher education expenses of the child at eligible
18 educational institutions.

19 (13) A support order that provides for the support or maintenance of a
20 child attending school is subject to this section regardless of when the sup-
21 port order was entered.

22 (14) A support order that provides for the support or maintenance of a
23 child attending school is intended to recognize the importance of continuing
24 education for a child over 18 years of age who does not benefit from an in-
25 tact family or who has been removed from the household. While support may
26 serve to supplement the resources available to the child attending school, it
27 is not intended to replace other resources or meet all of the financial needs
28 of a child attending school.

29 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
30 propriate series reference in (2).

31 **SECTION 27.** ORS 107.835 is amended to read:

1 107.835. (1) When a court enters a judgment, order or modification of a
2 judgment or order under ORS 163.760 to 163.777 **or 416.400 to 416.465** or ORS
3 chapter 25, 107, 108, 109[,] **or** 110 [*or 416*], the court shall allow any party to
4 the judgment or order to include in the judgment or order a waiver of per-
5 sonal service in a subsequent contempt proceeding in order to maintain the
6 confidentiality of the party's residential address. In the waiver, the party
7 shall give a contact address for service of process and select one of the fol-
8 lowing methods of substituted service:

9 (a) Mailing address;

10 (b) Business address; or

11 (c) Specified agent.

12 (2) Any time after a party has waived personal service under subsection
13 (1) of this section, the party may file an amended waiver designating a dif-
14 ferent method of substituted service or a different address for substituted
15 service. The party shall give notice of the amendment to all other parties.

16 (3) The State Court Administrator shall prescribe the content and form
17 of the waiver and amended waiver described in this section.

18 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
19 propriate series reference in (1).

20 **SECTION 28.** ORS 109.065 is amended to read:

21 109.065. (1) Parentage may be established between a person and a child
22 by:

23 (a) The person having given birth to the child;

24 (b) An unrebutted presumption of parentage under ORS 109.070;

25 (c) An adjudication of the person's maternity or paternity;

26 (d) Adoption of the child by the person;

27 (e) An effective acknowledgement of paternity by the man under ORS
28 109.070 or pursuant to the laws of another state, unless the acknowledgement
29 has been rescinded or successfully challenged;

30 (f) Establishment of paternity by an administrative order issued pursuant
31 to ORS [*chapter 416*] **416.400 to 416.465**;

1 (g) Filiation proceedings; or

2 (h) Parentage being established or declared by another provision of law.

3 (2) A person is the mother of a child to whom the person gives birth.

4 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
5 propriate series reference in (1)(f).

6 **SECTION 29.** ORS 133.807 is amended to read:

7 133.807. If from the initial examination before the judge or magistrate it
8 appears that the person held is the person charged with having committed
9 the crime alleged, the judge or magistrate must commit the person to jail
10 by a warrant reciting the accusation for a period of at least 45 days to enable
11 the arrest of the accused to be made under a warrant of the Governor on a
12 requisition of the executive authority of the state having jurisdiction of the
13 [*defense*] **offense**, unless the accused is released as provided in ORS 133.809,
14 or until the accused shall be legally discharged. The period of time may be
15 extended upon good cause shown demonstrating the need for additional time
16 to allow the executive authority of the state having jurisdiction of the [*de-*
17 *fense*] **offense** to comply with procedural requirements of the Uniform
18 Criminal Extradition Act, 18 U.S.C. 3182, or [*section 2,*] Article IV, **section**
19 **2**, of the United States Constitution.

20 **NOTE:** Corrects clerical errors; conforms citation to legislative style.

21 **SECTION 30.** ORS 169.080 is amended to read:

22 169.080. (1) If the condition or treatment of prisoners in a local
23 correctional facility, lockup or temporary hold or juvenile detention facility
24 is not in accordance with the standards established in ORS 169.076 to 169.078,
25 169.740, 419A.059 or 419B.180, the staff of the Department of Corrections may
26 notify in writing the appropriate local governmental agency of the standards
27 which are not being met and specific recommendations for the agency to
28 comply with the standards. Corrective measures shall be taken by the local
29 governmental agency to [*insure*] **ensure** compliance with all standards
30 within a reasonable length of time jointly agreed upon by the agency and the
31 Department of Corrections.

1 (2) The provisions of ORS 169.076 to 169.078, 169.740, 419A.059, 419B.160,
2 419B.180 and 419C.130 shall be enforceable by the Attorney General of the
3 State of Oregon. The Attorney General, at the request of the Department of
4 Corrections, may bring suit or action and may seek declaratory judgment as
5 provided in ORS chapter 28 as well as pursue any other form of suit or
6 action provided under Oregon law. Nothing in this section [*shall preclude*]
7 **precludes** a private right of suit or action.

8 **NOTE:** Updates word choice in (1); improves syntax in (2).

9 **SECTION 31.** ORS 173.025 is amended to read:

10 173.025. (1) The Legislative Fiscal Officer, with the aid of the Legislative
11 Revenue Officer, state agencies and affected local governmental units, in-
12 cluding school districts, shall prepare a fiscal impact statement for each
13 measure reported out of a committee of the Legislative Assembly that could
14 have an effect on expenditures of the state or on **expenditures of** local
15 governmental units, including school districts.

16 (2) The Legislative Revenue Officer, with aid of the Legislative Fiscal
17 Officer, the Department of Revenue, state agencies and affected local gov-
18 ernmental units, including school districts, shall prepare a revenue impact
19 statement for each measure reported out of a committee of the Legislative
20 Assembly that could have any effect on revenues of the state or on **revenues**
21 **of** local governmental units, including school districts.

22 (3)(a) As used in this subsection, “tax expenditure” has the meaning given
23 that term in ORS 291.201.

24 (b) If a revenue impact statement is prepared pursuant to subsection (2)
25 of this section on a measure that creates a tax expenditure, the revenue im-
26 pact statement must include the revenue impact of the measure for at least
27 three consecutive biennia, beginning with the current biennium.

28 (c) If a revenue impact statement is prepared pursuant to subsection (2)
29 of this section on a measure that creates or extends a tax expenditure, the
30 revenue impact statement must include a statement describing the public
31 policy purpose of the tax expenditure. The public policy purpose statement

1 is subject to review by the committee recommending passage of the measure.

2 **NOTE:** Corrects syntax in (1) and (2).

3 **SECTION 32.** ORS 181A.820 is amended to read:

4 181A.820. (1) No law enforcement agency of the State of Oregon or of any
5 political subdivision of the state shall use agency moneys, equipment or
6 personnel for the purpose of detecting or apprehending persons whose only
7 violation of law is that they are persons of foreign citizenship present in the
8 United States in violation of federal immigration laws.

9 (2) Notwithstanding subsection (1) of this section, a law enforcement
10 agency may exchange information with [*the*] United States [*Bureau of*] Im-
11 migration and Customs Enforcement, [*the*] United States [*Bureau of*] Citi-
12 zenship and Immigration Services and [*the*] United States [*Bureau of*]
13 Customs and Border Protection in order to:

14 (a) Verify the immigration status of a person if the person is arrested for
15 any criminal offense; or

16 (b) Request criminal investigation information with reference to persons
17 named in records of [*the*] United States [*Bureau of*] Immigration and Customs
18 Enforcement, [*the*] United States [*Bureau of*] Citizenship and Immigration
19 Services or [*the*] United States [*Bureau of*] Customs and Border Protection.

20 (3) Notwithstanding subsection (1) of this section, a law enforcement
21 agency may arrest any person who:

22 (a) Is charged by the United States with a criminal violation of federal
23 immigration laws under Title II of the Immigration and Nationality Act or
24 18 U.S.C. 1015, 1422 to 1429 or 1505; and

25 (b) Is subject to arrest for the crime pursuant to a warrant of arrest is-
26 sued by a federal magistrate.

27 (4) For purposes of subsection (1) of this section, the Bureau of Labor and
28 Industries is not a law enforcement agency.

29 (5) As used in this section, “warrant of arrest” has the meaning given that
30 term in ORS 131.005.

31 **NOTE:** Corrects references to federal agencies in (2) lead-in and (2)(b).

1 **SECTION 33.** ORS 184.619 is amended to read:

2 184.619. In accordance with the applicable provisions of ORS chapter 183,
3 the Oregon Transportation Commission:

4 (1) Shall adopt any rules and orders as *[it]* **the commission** considers
5 necessary and proper in performing the functions vested by law in the com-
6 mission.

7 (2) Notwithstanding any other provisions of law, *[the commission]* has the
8 power to adopt any rules, establish any policy or exercise any other duty,
9 function or power if a statute gives such power to the Department of
10 Transportation.

11 **NOTE:** Improves syntax in (1); corrects read-in in (2).

12 **SECTION 34.** (1) **Notwithstanding any other provision of law, ORS**
13 **192.173 shall not be considered to have been added to or made a part**
14 **of ORS 192.210 to 192.478 for the purpose of statutory compilation or**
15 **for the application of definitions, penalties or administrative pro-**
16 **visions applicable to statute sections in that series.**

17 (2) **ORS 192.173 is added to and made a part of ORS chapter 192.**

18 **NOTE:** Removes statute from inappropriate series and adds to appropri-
19 ate chapter.

20 **SECTION 35.** ORS 227.185 is amended to read:

21 227.185. The governing body of a city or its *[designate]* **designee** may al-
22 low the establishment of a transmission tower over 200 feet in height in any
23 zone subject to reasonable conditions imposed by the governing body or its
24 *[designate]* **designee.**

25 **NOTE:** Corrects word choice.

26 **SECTION 36.** ORS 238.445 is amended to read:

27 238.445. (1) Except as provided in this section, the right of a person to a
28 pension, an annuity or a retirement allowance, to the return of contribution,
29 the pension, annuity or retirement allowance itself, any optional benefit or
30 death benefit, or any other right accrued or accruing to any person under
31 the provisions of this chapter or ORS chapter 238A, and the money in the

1 various funds created by ORS 238.660 and 238.670, shall be exempt from
2 garnishment and all state, county and municipal taxes heretofore or here-
3 after imposed, except as provided under ORS chapter 118, shall not be subject
4 to execution, garnishment, attachment or any other process or to the opera-
5 tion of any bankruptcy or insolvency law heretofore or hereafter existing or
6 enacted, and shall be unassignable.

7 (2) Subsection (1) of this section does not apply to state personal income
8 taxation of amounts paid under this chapter and ORS chapter 238A.

9 (3) Unless otherwise ordered by a court under ORS 25.387, the exemption
10 from execution or other process granted under this section applies to 50
11 percent of amounts paid under this chapter and ORS chapter 238A if the
12 execution or other process is issued for a support obligation or an order or
13 notice entered or issued under **ORS 416.400 to 416.465** or ORS chapter 25,
14 107, 108, 109, 110, [~~416,~~] 419B or 419C.

15 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
16 propriate series reference in (3).

17 **SECTION 37.** ORS 244.290 is amended to read:

18 244.290. (1) The Oregon Government Ethics Commission shall:

19 (a) Prescribe forms for statements required by this chapter and provide
20 the forms to persons required to file the statements under this chapter or
21 pursuant to a resolution adopted under ORS 244.160.

22 (b) Develop a filing, coding and cross-indexing system consistent with the
23 purposes of this chapter.

24 (c) Prepare and publish reports the commission finds are necessary.

25 (d) Accept and file any information voluntarily supplied that exceeds the
26 requirements of this chapter.

27 (e) Make statements and other information filed with the commission
28 available for public inspection and copying during regular office hours, and
29 make copying facilities available at a charge not to exceed actual cost.

30 (f) Not later than February 1 of each odd-numbered year, report to the
31 Legislative Assembly any recommended changes to provisions of ORS 171.725

1 to 171.785 or this chapter.

2 (2) The commission shall adopt rules necessary to carry out its duties
3 under ORS 171.725 to 171.785, [*and*] 171.992, **192.660 and 192.685** and this
4 chapter, including rules to:

5 (a) Create a procedure under which items before the commission may be
6 treated under a consent calendar and voted on as a single item;

7 (b) Exempt a public official who is otherwise required to file a statement
8 pursuant to ORS 244.050 from filing the statement if the regularity, number
9 and frequency of the meetings and actions of the body over which the public
10 official has jurisdiction are so few or infrequent as not to warrant the public
11 disclosure;

12 (c) Establish an administrative process whereby a person subpoenaed by
13 the commission may obtain a protective order;

14 (d) List criteria and establish a process for the commission to use
15 prosecutorial discretion to decide whether to proceed with an inquiry or in-
16 vestigation;

17 (e) Establish a procedure under which the commission shall conduct ac-
18 curacy audits of a sample of reports or statements filed with the commission
19 under this chapter or ORS 171.725 to 171.785;

20 (f) Describe the application of provisions exempting items from the defi-
21 nition of “gift” in ORS 244.020;

22 (g) Specify when a continuing violation is considered a single violation
23 or a separate and distinct violation for each day the violation occurs; and

24 (h) Set criteria for determining the amount of civil penalties that the
25 commission may impose.

26 (3) The commission may adopt rules that:

27 (a) Limit the minimum size of, or otherwise establish criteria for or
28 identify, the smaller classes that qualify under the class exception from the
29 definition of “potential conflict of interest” under ORS 244.020;

30 (b) Require the disclosure and reporting of gifts or other compensation
31 made to or received by a public official or candidate;

1 (c) Establish criteria for cases in which information relating to notices
2 of actual or potential conflicts of interest shall, may not or may be provided
3 to the commission under ORS 244.130; or

4 (d) Allow the commission to accept the filing of a statement containing
5 less than all of the information required under ORS 244.060 and 244.070 if
6 the public official or candidate certifies on the statement that the informa-
7 tion contained on the statement previously filed is unchanged or certifies
8 only as to any changed material.

9 (4) Not less frequently than once each calendar year, the commission
10 shall:

11 (a) Consider adoption of rules the commission deems necessary to imple-
12 ment or interpret provisions of this chapter relating to issues the commission
13 determines are of general interest to public officials or candidates or that
14 are addressed by the commission or by commission staff on a recurring basis;
15 and

16 (b) Review rules previously adopted by the commission to determine
17 whether the rules have continuing applicability or whether the rules should
18 be amended or repealed.

19 (5) The commission shall adopt by rule an electronic filing system under
20 which statements required to be filed under ORS 244.050 and 244.217 must
21 be filed, without a fee, with the commission in an electronic format.

22 (6) The commission shall make available in a searchable format for review
23 by the public using the Internet:

24 (a) Statements filed under ORS 244.050 and 244.217;

25 (b) Advisory opinions issued by the commission or the executive director
26 of the commission;

27 (c) Findings issued by the commission under ORS 244.260 in instances
28 where the commission determines that there has been a violation of a pro-
29 vision of this chapter or of any rule adopted by the commission under this
30 chapter. Nothing in this paragraph requires the commission to make publicly
31 available materials that are otherwise exempt from public disclosure or that

1 are required to be kept confidential by the commission; and

2 (d) Lobbyist registration statements and revisions and updates to lobbyist
3 registration statements filed under ORS 171.740. The information required
4 under this paragraph must be available in a searchable format for review by
5 the public using the Internet not later than one calendar day after the
6 lobbyist files the information with the commission.

7 **NOTE:** Corrects compilation error in (2).

8 **SECTION 38.** ORS 255.012 is amended to read:

9 255.012. As used in this chapter, “district” means:

- 10 (1) A domestic water supply district organized under ORS chapter 264.
- 11 (2) A cemetery maintenance district organized under ORS chapter 265.
- 12 (3) A park and recreation district organized under ORS chapter 266.
- 13 (4) A mass transit district organized under ORS 267.010 to 267.390.
- 14 (5) A transportation district organized under ORS 267.510 to 267.650.
- 15 (6) A metropolitan service district organized under ORS chapter 268.
- 16 (7) A translator district organized under ORS 354.605 to 354.715.
- 17 (8) A library district organized under ORS 357.216 to 357.286.
- 18 (9) A county road district organized under ORS 371.055 to 371.110.
- 19 (10) A special road district organized under ORS 371.305 to 371.360.
- 20 (11) A road assessment district organized under ORS 371.405 to 371.535.
- 21 (12) A highway lighting district organized under ORS chapter 372.
- 22 (13) A health district organized under ORS 440.305 to 440.410.
- 23 (14) A sanitary district organized under ORS 450.005 to 450.245.
- 24 (15) A sanitary authority, water authority or joint water and sanitary
25 authority organized under ORS 450.600 to 450.989.
- 26 (16) A county service district organized under ORS chapter 451.
- 27 (17) A vector control district organized under ORS 452.020 to 452.170.
- 28 (18) A rural fire protection district organized under ORS chapter 478.
- 29 (19) An airport district organized under ORS chapter 838.
- 30 (20) A geothermal heating district organized under ORS chapter 523.
- 31 (21) A water improvement district organized under ORS chapter 552.

- 1 (22) A water control district organized under ORS chapter 553.
2 (23) A weather modification district organized under ORS 558.200 to
3 558.440.
4 (24) A livestock district organized under ORS 607.005 to 607.051.
5 (25) A port organized under ORS 777.005 to 777.725 and 777.915 to 777.953.
6 (26) The Port of Portland established by ORS 778.010.
7 (27) A school district.
8 (28) Territory, other than territory within a city, proposed to be created,
9 formed or incorporated into a district or to be annexed or otherwise added
10 to a district.
11 (29) A soil and water conservation district organized under ORS 568.210
12 to [568.810] **568.808** and 568.900 to 568.933.
13 (30) A heritage district organized under ORS 358.442 to 358.474.
14 (31) A radio and data district organized under ORS 403.500 to 403.542.
15 (32) A sand control district organized under ORS 555.500 to 555.535.

16 **NOTE:** Corrects series reference in (29).

17 **SECTION 39. Notwithstanding any other provision of law, ORS**
18 **276A.203 and 276A.206 shall not be considered to have been added to or**
19 **made a part of ORS chapter 291 for the purpose of statutory compila-**
20 **tion or for the application of definitions, penalties or administrative**
21 **provisions applicable to statute sections in that chapter.**

22 **NOTE:** Removes statutes from inappropriate chapter.

23 **SECTION 40.** Section 1a, chapter 548, Oregon Laws 2015, as amended by
24 section 16, chapter 88, Oregon Laws 2016, is amended to read:

25 **Sec. 1a.** The removal of the words “or structures” from the phrase
26 “structure or structures” by the amendments to ORS 289.005 by section 1,
27 chapter 548, Oregon Laws 2015:

- 28 (1) Does not prohibit the financing of more than one structure;
29 (2) Does not limit the effect of, and is subject to construction under, ORS
30 174.127, under which the singular may include the plural and the plural may
31 include the singular; and

1 (3) Conforms the language to the form and style requirements of the
2 [*Legislative Counsel Committee*] **Legislative Assembly**.

3 **NOTE:** Specifies correct entity in (3).

4 **SECTION 41.** ORS 327.880 is amended to read:

5 327.880. (1) If a school district applies, but does not qualify for, an ap-
6 portionment under ORS 327.859 and 327.877, the Department of Education
7 shall:

8 (a) Retain the amount of the apportionment the school district would have
9 received if the school district had qualified for the apportionment; and

10 (b) Prepare a corrective action plan for the school district;

11 (2) The department may use a portion of an amount retained under sub-
12 section (1)(a) of this section to prepare and assist a school district to im-
13 plement a corrective action plan;

14 (3) If a school district that does not qualify for an apportionment qualifies
15 for an apportionment in the next year, the department shall apportion to the
16 school district the amount of the retained apportionment that the department
17 did not use under [*section (2) of this 2016 Act*] **subsection (2) of this**
18 **section**; and

19 (4) If a school district that does not qualify for an apportionment in one
20 year does not qualify for an apportionment in the next year, or if a school
21 district does not apply for an apportionment in any year, the department
22 shall, using the process described in ORS 327.859, apportion the amount of
23 the retained apportionment to school districts that have qualified for appor-
24 tionments.

25 **NOTE:** Corrects internal reference in (3).

26 **SECTION 42.** ORS 413.574 is amended to read:

27 413.574. (1) The Pain Management Commission shall consist of 19 mem-
28 bers as follows:

29 (a) Seventeen members shall be appointed by the Director of the Oregon
30 Health Authority. Prior to making appointments, the director shall request
31 and consider recommendations from individuals and public and private

1 agencies and organizations with experience or a demonstrated interest in
2 pain management issues, including but not limited to:

3 (A) Physicians licensed under ORS chapter 677 or organizations repre-
4 senting physicians;

5 (B) Nurses licensed under ORS chapter 678 or organizations representing
6 nurses;

7 (C) Psychologists licensed under ORS 675.010 to 675.150 or organizations
8 representing psychologists;

9 (D) Physician assistants licensed under ORS chapter 677 or organizations
10 representing physician assistants;

11 (E) Chiropractic physicians licensed under ORS chapter 684 or organiza-
12 tions representing chiropractic physicians;

13 (F) Naturopaths licensed under ORS chapter 685 or organizations repre-
14 senting naturopaths;

15 (G) Clinical social workers licensed under ORS 675.530 or organizations
16 representing clinical social workers;

17 (H) Acupuncturists licensed under ORS 677.759;

18 (I) Pharmacists licensed under ORS chapter 689;

19 (J) Palliative care professionals or organizations representing palliative
20 care professionals;

21 (K) Mental health professionals or organizations representing mental
22 health professionals;

23 (L) Health care consumers or organizations representing health care
24 consumers;

25 (M) Hospitals and health plans or organizations representing hospitals
26 and health plans;

27 (N) Patients or advocacy groups representing patients;

28 (O) Dentists licensed under ORS chapter 679;

29 (P) Occupational therapists licensed under ORS 675.210 to 675.340;

30 (Q) Physical therapists licensed under ORS 688.010 to 688.201; and

31 (R) Members of the public.

1 (b) Two members shall be members of a legislative committee with juris-
2 diction over human services issues, one appointed by the President of the
3 Senate and one appointed by the Speaker of the House of Representatives.
4 Both members shall be nonvoting[, *ex officio*] members of the commission.

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

11 (3) Members of the commission are not entitled to compensation or re-
12 imbursement for expenses and serve as volunteers on the commission.

13 **NOTE:** Corrects terminology in (1)(b).

14 **SECTION 43.** ORS 416.400 is amended to read:

15 416.400. As used in ORS 416.400 to 416.465, unless the context requires
16 otherwise:

17 [(1) “Administrator” has the meaning given that term in ORS 25.010.]

18 [(2)] (1) “Court” means any circuit court of this state and any court in
19 another state having jurisdiction to determine the liability of persons for the
20 support of another person.

21 [(3)] (2) “Court order” means any judgment or order of any Oregon court
22 that orders payment of a set or determinable amount of support money by
23 the subject parent and does not include an order or judgment in any pro-
24 ceeding in which the court did not order support.

25 [(4)] (3) “Department” means the Department of Justice of this state or
26 its equivalent in any other state from which a written request for establish-
27 ment or enforcement of a support obligation is received under ORS 416.415.

28 [(5)] (4) “Dependent child” means any person under the age of 18 who is
29 not otherwise emancipated, self-supporting, married or a member of the
30 Armed Forces of the United States. “Dependent child” also means a child
31 attending school as defined in ORS 107.108.

1 [(6)] (5) “Office” means the office of the Division of Child Support or the
2 office of the district attorney.

3 [(7)] (6) “Parent” means:

4 (a) The natural or adoptive father or mother of a dependent child or youth
5 offender;

6 (b) A person whose parentage has been established under ORS 109.065; or

7 (c) A stepparent when the person has an obligation to support a depend-
8 ent child under ORS 108.045.

9 [(8)] (7) “Past support” means the amount of child support that could have
10 been ordered and accumulated as arrears against a parent for the benefit of
11 a child for any period of time during which the child was not supported by
12 the parent and for which period no support order was in effect.

13 [(9)] (8) “Public assistance” means any money payments made by the state
14 that are paid to or for the benefit of any dependent child or youth offender,
15 including but not limited to payments made so that food, shelter, medical
16 care, clothing, transportation or other necessary goods, services or items may
17 be provided, and payments made in compensation for the provision of the
18 necessities. “Public assistance” does not include money payments made by
19 the state to or for the benefit of a dependent child as the result of the child’s
20 removal from the parent’s home against the wishes of the parent, if the De-
21 partment of Human Services determines after completion of a child protec-
22 tive services assessment that the report of abuse is unfounded according to
23 rules adopted by the Department of Human Services.

24 [(10)] (9) “Youth offender” has the meaning given that term in ORS
25 419A.004.

26 **NOTE:** Deletes redundant definition in (1) (see section 5, amending ORS
27 25.010).

28 **SECTION 44.** ORS 416.407 is amended to read:

29 416.407. (1) In any proceeding under ORS 416.400 to 416.465, the following
30 are parties and shall be given notice of any such proceeding by the admin-
31 istrator:

1 (a) The State of Oregon.

2 (b) An obligee who has physical custody of a child for whose benefit a
3 support order or an order establishing paternity is sought, is being modified
4 or is being enforced under [*this chapter*] **ORS 416.400 to 416.465**.

5 (c) A noncustodial parent or a male who is alleged to be the father of a
6 child when an action is initiated under [*this chapter*] **ORS 416.400 to 416.465**
7 to establish, modify or enforce a support or paternity order.

8 (d) A person joined as a party under subsection (2) of this section.

9 (2) Pursuant to administrative rule, a party may join a person who has
10 physical custody of a child to a proceeding under ORS 416.400 to 416.465.

11 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
12 propriate series reference in (1)(b) and (c).

13 **SECTION 45.** ORS 416.440 is amended to read:

14 416.440. (1) The documents required to be filed for purposes of subsection
15 (2) of this section include all the following:

16 (a) A true copy of any order entered, filed or registered by the adminis-
17 trator or administrative law judge pursuant to ORS 416.400 to 416.465 or ORS
18 chapter 110.

19 (b) A true copy of the return of service, if applicable.

20 (c) A separate statement containing the information required to be con-
21 tained in a judgment under ORS 18.042 (2).

22 (2) The documents described under subsection (1) of this section shall be
23 filed in the office of the clerk of the circuit court in the county in which
24 either the parent or the dependent child resides or in the county where the
25 court order was entered if the administrative order is an order modifying a
26 court order. Upon receipt of the documents, the clerk shall enter the order
27 in the register of the circuit court, shall note in the register that the order
28 creates a lien and shall make the notations required by ORS 18.075 in the
29 judgment lien record maintained under ORS 18.075.

30 (3) Upon entry in the register under subsection (2) of this section, the
31 order shall have all the force, effect and attributes of a judgment of the

1 circuit court, including but not limited to:

2 (a) Creation of a judgment lien under ORS chapter 18; and

3 (b) Ability to be enforced by contempt proceedings and pursuant to ORS
4 18.252 to 18.993.

5 (4) Notwithstanding subsections (2) and (3) of this section, the entry in
6 the register of an order of the administrator or administrative law judge does
7 not preclude any subsequent proceeding or remedy available under ORS
8 416.400 to 416.465.

9 (5) An order filed under this section that modifies a previously filed order
10 or a previously entered judgment may contain provisions that were included
11 in the order or judgment.

12 (6) A court or administrative order of another state may be filed, or if
13 appropriate, registered, pursuant to this section for the purposes of ORS
14 chapter 110. Notwithstanding any other provision of [*this chapter*] **ORS**
15 **416.400 to 416.465**, an order of another state registered pursuant to ORS
16 110.605 to 110.611 may not be modified unless the requirements of ORS
17 110.626 to 110.637 are met.

18 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
19 propriate series reference in (6).

20 **SECTION 46.** ORS 418.310 is amended to read:

21 418.310. ORS 418.205 to [418.310] **418.327** and 418.992 to 418.998 apply to
22 private agencies and institutions for the combined care of adults and chil-
23 dren where the care for children includes day or residential treatment or
24 care.

25 **NOTE:** Corrects series reference.

26 **SECTION 47.** ORS 419B.806 is amended to read:

27 419B.806. (1) As used in this section, “consolidated” means that actions
28 are heard before one judge of the circuit court to determine issues regarding
29 a child or ward.

30 (2) In any action filed in the juvenile court in which the legal or physical
31 custody of a child or ward is at issue and there is also a child custody,

1 parenting time, visitation, restraining order, filiation or Family Abuse Pre-
2 vention Act action involving the child or ward in a domestic relations,
3 filiation or guardianship proceeding, the matters shall be consolidated.
4 Actions must be consolidated under this subsection regardless of whether the
5 actions to be consolidated were filed or initiated before or after the filing
6 of the petition under ORS 419B.100.

7 (3) Consolidation does not merge the procedural or substantive law of the
8 individual actions. Parties to the individual consolidated actions do not have
9 standing, solely by virtue of the consolidation, in every action subject to the
10 order of consolidation. Parties must comply with provisions for intervention
11 or participation in a particular action under the provisions of law applicable
12 to that action.

13 (4) Upon entry of an order of consolidation, all pending issues pertaining
14 to the actions subject to the order shall be heard together in juvenile court.
15 The court shall hear the juvenile matters first unless the court finds that it
16 is in the best interest of the child or ward to proceed otherwise.

17 (5) A judge shall make and modify orders and findings in actions subject
18 to the order of consolidation upon the filing of proper motions and notice
19 as provided by law applicable to the actions. Any findings, orders or mod-
20 ifications must be consistent with the juvenile court orders, and persons who
21 were parties to the juvenile court action may not relitigate issues in con-
22 solidated actions.

23 (6) The judge shall set out separately from orders entered under this
24 chapter or ORS chapter 419C any orders or judgments made in other actions
25 subject to the consolidation order. The trial court administrator shall file the
26 orders and judgments in the appropriate actions subject to the consolidation
27 order. An order or judgment in an individual juvenile court action is final
28 if it finally disposes of the rights and duties of the parties to that action,
29 without reference to whether the order or judgment disposes of the rights
30 and duties of the parties to another action with which the action has been
31 consolidated.

1 (7)(a) When the actions described in subsection (2) of this section exist
2 in two or more circuit courts, the judges assigned to the actions shall confer
3 to determine the appropriate court in which to consolidate and hear the
4 actions. The judges shall confer not later than 10 judicial days after a court
5 has received notice of the existence of an action in another circuit court.

6 (b) If the judges agree on the circuit court in which the actions should
7 be consolidated, the judges shall take such action as is necessary to consol-
8 idate the actions in the circuit court.

9 (c) If the judges do not agree on the circuit court in which the actions
10 should be consolidated, the actions must be consolidated in the court in
11 which the juvenile action is filed or, if more than one juvenile action is
12 pending, in the court in which the first juvenile action was filed.

13 (8) Nothing in this section requires the consolidation of any administra-
14 tive proceeding under **ORS 416.400 to 416.465** or ORS chapter 25 [*or 416*]
15 with a juvenile court or other action.

16 **NOTE:** Eliminates inappropriate chapter reference and substitutes ap-
17 propriate series reference in (8).

18 **SECTION 48.** ORS 443.455 is amended to read:

19 443.455. (1) Except as provided in subsection (5) of this section, for pur-
20 poses of imposing civil penalties, residential facilities approved under ORS
21 443.400 to 443.455 are subject to ORS 441.705 to 441.745.

22 (2)(a) The Director of Human Services shall impose penalties on residen-
23 tial care facilities pursuant to ORS 441.731.

24 (b) The director shall by rule prescribe a schedule of penalties for resi-
25 dential training facilities and residential training homes that are not in
26 compliance with ORS 443.400 to 443.455.

27 (3) The Director of the Oregon Health Authority shall by rule prescribe
28 a schedule of penalties for residential treatment facilities and residential
29 treatment homes that are not in compliance with ORS 443.400 to 443.455.

30 (4) If the Department of **Human Services** or the **Oregon Health Au-**
31 **thority** investigates and makes a finding of abuse arising from deliberate or

1 other than accidental action or inaction that is likely to cause a negative
2 outcome by a person with a duty of care toward a resident of a residential
3 facility, other than a residential care facility, and if the abuse resulted in
4 the death, serious injury, rape or sexual abuse of a resident, the department
5 or authority shall impose a civil penalty of not less than \$2,500 for each
6 occurrence of substantiated abuse, not to exceed \$15,000 in any 90-day period.

7 As used in this subsection:

8 (a) "Negative outcome" includes serious injury, rape, sexual abuse or
9 death.

10 (b) "Rape" means rape in the first degree as defined in ORS 163.375, rape
11 in the second degree as defined in ORS 163.365 and rape in the third degree
12 as defined in ORS 163.355.

13 (c) "Serious injury" means physical injury that creates a substantial risk
14 of death or that causes serious and protracted disfigurement, protracted
15 impairment of health or protracted loss or impairment of the function of any
16 bodily organ.

17 (d) "Sexual abuse" means any form of sexual contact between an employee
18 of a residential facility or a person providing services in the residential fa-
19 cility and a resident of that facility, including but not limited to sodomy,
20 sexual coercion, sexually explicit photographing and sexual harassment.

21 (5) Civil penalties recovered from a residential training facility, residen-
22 tial training home, residential treatment facility or residential treatment
23 home shall be deposited in the Long Term Care Ombudsman Account estab-
24 lished in ORS 441.419.

25 **NOTE:** Sets out full agency names in first reference in (4).

26 **SECTION 49. Notwithstanding any other provision of law, ORS**
27 **456.594 to 456.599 shall not be considered to have been added to or made**
28 **a part of ORS chapter 469 for the purpose of statutory compilation or**
29 **for the application of definitions, penalties or administrative pro-**
30 **visions applicable to statute sections in that chapter.**

31 **NOTE:** Removes series from inappropriate chapter.

1 **SECTION 50. ORS 459A.738 and 459A.739 are added to and made a**
2 **part of ORS 459A.700 to 459A.740.**

3 **NOTE:** Adds statutes to appropriate series.

4 **SECTION 51.** ORS 459A.739 is amended to read:

5 459A.739. In addition to the authority granted under ORS 459.992, in-
6 spectors and investigators employed by the Oregon Liquor Control Commis-
7 sion have authority to inspect any space occupied by a dealer[, *as defined in*
8 *ORS 459A.700,*] for compliance with ORS 459A.738.

9 **NOTE:** Deletes redundant definition citation (see section 50).

10 **SECTION 52.** ORS 461.250 is amended to read:

11 461.250. Upon recommendation of the Director of the Oregon State Lot-
12 tery, the Oregon State Lottery Commission shall adopt rules to establish a
13 system of verifying the validity of tickets or shares claimed to win prizes and
14 to effect payment of such prizes, provided:

15 (1) For the convenience of the public, lottery game retailers may be au-
16 thorized by the commission to pay winners of up to \$5,000 after performing
17 validation procedures on their premises appropriate to the lottery game in-
18 volved.

19 (2) A prize may not be paid to a person under 18 years of age.

20 (3) A video lottery game prize may not be paid to a person under 21 years
21 of age.

22 (4) A prize may not be paid arising from claimed tickets or shares that
23 are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in
24 error, unreadable, not received or not recorded by the Oregon State Lottery
25 by applicable deadlines, lacking in captions that confirm and agree with the
26 lottery play symbols as appropriate to the lottery game involved or not in
27 compliance with such additional specific rules or with public or confidential
28 validation and security tests of the lottery appropriate to the particular lot-
29 tery game involved. However, the commission may adopt rules to establish
30 a system of verifying the validity of claims to prizes greater than \$600 that
31 are otherwise not payable under this subsection due to a lottery game

1 retailer's losing, damaging or destroying the winning ticket or share while
2 performing validation procedures thereon, and to effect payment of verified
3 claims. A verification system established by the commission shall include
4 appropriate public or confidential validation and security tests.

5 (5) A particular prize in any lottery game may not be paid more than
6 once, and in the event of a binding determination that more than one
7 claimant is entitled to a particular prize, the sole remedy of such claimants
8 is the award to each of them of an equal share in the prize.

9 (6) The commission may specify that winners of less than \$25 claim such
10 prizes from either the same lottery game retailer who sold the winning ticket
11 or share or from the lottery itself and may also specify that the lottery game
12 retailer who sold the winning ticket or share be responsible for directly
13 paying that prize.

14 (7) Holders of tickets or shares shall have the right to claim prizes for
15 one year after the drawing or the end of the lottery game or play in which
16 the prize was won. The commission may define shorter time periods to claim
17 prizes and for eligibility for entry into drawings involving entries or
18 finalists. If a valid claim is not made for a prize payable directly by the
19 lottery commission within the applicable period, the unclaimed prize shall
20 remain the property of the commission and shall be allocated to the benefit
21 of the public purpose.

22 (8)(a) The right of any person to a prize shall not be assignable, except
23 that:

24 (A) Payment of any prize may be made according to the terms of a de-
25 ceased prize winner's signed beneficiary designation form filed with the
26 commission or, if no such form has been filed, to the estate of the deceased
27 prize winner.

28 (B) Payment of any prize shall be made to a person designated pursuant
29 to an appropriate judicial order or pursuant to a judicial order approving the
30 assignment of the prize in accordance with ORS 461.253.

31 (b) The director, commission and state shall be discharged of all further

1 liability with respect to a specific prize payment upon making that prize
2 payment in accordance with this subsection or ORS 461.253.

3 (9) A ticket or share may not be purchased by, and a prize may not be
4 paid to, a member of the commission, the director, the assistant directors or
5 any employee of the state lottery or to any spouse, child, brother, sister or
6 parent of such person.

7 (10) Payments made according to the terms of a deceased prize winner's
8 signed beneficiary designation form filed with the commission are effective
9 by reason of the contract involved and this statute and are not to be con-
10 sidered as testamentary devices or subject to ORS chapter 112. The director,
11 commission and state shall be discharged of all liability upon payment of a
12 prize.

13 (11) In accordance with the provisions of the [*Soldiers' and Sailors' Civil*
14 *Relief Act of 1940 (50 U.S.C.A. app. 525)*] **Servicemembers Civil Relief Act,**
15 **50 U.S.C. 3935**, a person while in active military service may claim ex-
16 emption from the one-year ticket redemption requirement under subsection
17 (7) of this section. However, the person must notify the commission by pro-
18 viding satisfactory evidence of possession of the winning ticket within the
19 one-year period, and must claim the prize or share no later than one year
20 after discharge from active military service.

21 **NOTE:** Adjusts reference in (11) to update title of federal Act and to re-
22 flect federal code reorganization.

23 **SECTION 53.** ORS 541.984 is amended to read:

24 541.984. (1) The Oregon Watershed Enhancement Board shall establish
25 programs to provide grants from the Oregon Agricultural Heritage Fund for
26 the purposes of:

27 (a) Assisting owners of working land with succession planning for those
28 lands;

29 (b) Funding the purchasing, implementing, carrying out or monitoring of
30 conservation management plans, working land conservation covenants or
31 working land conservation easements described in ORS 541.981 and 541.982;

1 and

2 (c) Providing development funding or technical assistance to organiza-
3 tions that enter into or propose to enter into agreements resulting in con-
4 servation management plans, or that accept or propose to accept working
5 land conservation covenants or working land conservation easements.

6 (2) The board, after consultation with the Oregon Agricultural Heritage
7 Commission established in ORS 541.986, shall adopt rules that establish a
8 process for submitting and processing applications for grants under ORS
9 541.981 and 541.982. To the extent practicable, the board shall design the
10 process to:

11 (a) Allow flexibility and responsiveness to program participant needs; and

12 (b) Ensure compatibility with federal working land conservation easement
13 programs and other programs for the conservation of working land.

14 (3) The board and the commission[,] shall jointly appoint one or more
15 technical committees to evaluate and rank conservation management plans,
16 working land conservation covenants and working land conservation ease-
17 ments described in applications filed under ORS 541.981 and 541.982. The
18 system used by the technical committee or committees shall provide for the
19 ranking of conservation management plans to be separate from the ranking
20 of working land conservation covenants and working land conservation
21 easements. The ranking for a plan, covenant or easement shall be based on
22 criteria that include, but need not be limited to:

23 (a) The extent to which the plan, covenant or easement would protect,
24 maintain or enhance farming or ranching on working land;

25 (b) The extent to which the plan, covenant or easement would protect,
26 maintain or enhance fish or wildlife habitat, improve water quality or sup-
27 port other natural resource values;

28 (c) The extent to which the plan, covenant or easement would protect
29 agricultural outcomes, benefits or other investment gains;

30 (d) The capacity of the organization that filed the application to enter
31 into a conservation management plan[,] **or** accept a working land conserva-

1 tion covenant or working land conservation easement, and the competence
2 of the organization;

3 (e) The extent to which the benefit to the state from the investment may
4 be maximized, based on the ability to leverage grant moneys with other
5 funding sources and on the duration and extent of the conservation man-
6 agement plan, working land conservation covenant or working land conser-
7 vation easement; and

8 (f) The extent and nature of plan, covenant or easement impacts on own-
9 ers or operators of neighboring lands.

10 (4) The criteria for ranking conservation management plans, working land
11 conservation covenants or working land conservation easements under sub-
12 section (3) of this section may not include a consideration of the type of
13 agricultural operation conducted on the working land.

14 (5) An applicant must demonstrate to the satisfaction of the board that
15 the participants in a conservation management plan, working land conser-
16 vation covenant or working land conservation easement to be benefitted by
17 a grant under this section understand and agree to their roles and responsi-
18 bilities under the plan, covenant or easement.

19 (6) The board may issue a grant to fund a conservation management plan,
20 working land conservation covenant or working land conservation easement
21 described in ORS 541.981 and 541.982 only if:

22 (a) There is a contribution of cash for the plan, covenant or easement, a
23 contribution of in-kind services or another form of investment in the plan,
24 covenant or easement from a funding source other than the Oregon Agri-
25 cultural Heritage Fund;

26 (b) The plan, covenant or easement is reviewed by a technical committee
27 that has expertise relevant to the described plan, covenant or easement; and

28 (c) The commission reviews and recommends funding of the plan,
29 covenant or easement.

30 (7) Except as provided in this subsection, an organization that receives
31 a grant from the board for a conservation management plan, or an agricul-

1 tural owner or operator receiving payments of moneys from an organization
2 grant regarding a conservation management plan, may receive cash contri-
3 butions, other financial assistance, in-kind services or investments, rental
4 or easement payments, tax benefits or other benefits from a federal, state or
5 private entity in return for practices related to the purchasing, implement-
6 ing, carrying out or monitoring of the conservation management plan. The
7 board or an organization grant may not, however, provide payments that
8 duplicate any federal, state or private payments for the same measures di-
9 rected to maintaining or enhancing fish or wildlife habitat, improving water
10 quality or supporting other natural resource values within the plan.

11 (8) An organization that receives a grant from the board for a working
12 land conservation covenant or working land conservation easement, or an
13 owner of working land that enters into a working land conservation
14 covenant or grants a working land conservation easement, may receive cash
15 contributions, other financial assistance, in-kind services or other forms of
16 investment from any public or private sources for purposes of purchasing,
17 implementing, carrying out or monitoring of the covenant or easement.

18 **NOTE:** Corrects punctuation in (3) lead-in and (3)(d).

19 **SECTION 54.** ORS 543.170 is amended to read:

20 543.170. No person, state agency, local government, district or municipal
21 corporation shall construct or maintain, and no officer or agency of the state
22 shall issue any permit for the construction or maintenance of any hydro-
23 electric facility or structure on [*Squaw*] **Isqúulktpe** Creek.

24 **NOTE:** Updates statute to conform with official name change.

25 **SECTION 55.** ORS 624.010 is amended to read:

26 624.010. As used in ORS 624.010 to 624.121, unless the context requires
27 otherwise:

28 (1) “Authority” means the Oregon Health Authority.

29 (2) “Bed and breakfast facility” means any establishment located in a
30 structure designed for a single family residence and structures appurtenant
31 thereto, regardless of whether the owner or operator of the establishment

1 resides in any of the structures, that:

2 (a) Has more than two rooms for rent on a daily basis to the public; and

3 (b) Offers meal service as provided in ORS 624.046 as part of the cost of
4 the room.

5 (3) "Director" means the Director of the Oregon Health Authority.

6 (4) "Intermittent temporary restaurant" means an establishment:

7 (a) That operates temporarily at a specific location in connection with
8 multiple public gatherings, entertainment events, food product promotions
9 or other events, at least two of which are arranged for by different oversight
10 organizations; and

11 (b) Where food is prepared or served for consumption by the public.

12 (5) "Limited service restaurant" means a restaurant serving only individ-
13 ually portioned prepackaged foods prepared from an approved source by a
14 commercial processor and nonperishable beverages.

15 (6) "Operational review" means the examination of a plan of operation for
16 an establishment in order to ensure that the proposed operation conforms
17 with applicable sanitation standards.

18 (7) "Oversight organization" means an entity responsible for organizing,
19 managing or otherwise arranging for a public gathering, entertainment
20 event, food product promotion or other event, including but not limited to
21 ensuring the availability of water, sewer and sanitation services.

22 (8) "Person" means a person as defined in ORS 174.100, a public body as
23 defined in ORS 174.109, the Oregon Health and Science University or the
24 Oregon State Bar.

25 (9) "Restaurant," except as provided in subsection [(9)] (10) of this sec-
26 tion, means an establishment:

27 (a) Where food or drink is prepared for consumption by the public;

28 (b) Where the public obtains food or drink so prepared in form or quantity
29 consumable then and there, whether or not it is consumed within the con-
30 fines of the premises where prepared; or

31 (c) That prepares food or drink in consumable form for service outside the

1 premises where prepared.

2 (10) "Restaurant" does not mean a railroad dining car, bed and breakfast
3 facility, intermittent temporary restaurant, seasonal temporary restaurant
4 or single-event temporary restaurant.

5 (11) "Seasonal temporary restaurant" means an establishment:

6 (a) That operates at a specific location in connection with multiple public
7 gatherings, entertainment events, food product promotions or other events
8 that are arranged for by the same oversight organization; and

9 (b) Where food is prepared or served for consumption by the public.

10 (12) "Single-event temporary restaurant" means an establishment:

11 (a) That operates in connection with a single public gathering, enter-
12 tainment event, food product promotion or other event; and

13 (b) Where food is prepared or served for consumption by the public.

14 **NOTE:** Corrects internal reference in (9).

15 **SECTION 56.** ORS 634.306 is amended to read:

16 634.306. In accordance with the provisions of ORS chapter 183, the State
17 Department of Agriculture may adopt rules to carry out the purposes and
18 intent of this chapter, including but not limited to rules that:

19 (1) Establish and maintain a program required for an individual to work
20 or engage in the application or spraying of pesticides as a pesticide trainee.

21 In this regard, the department may take into consideration:

22 (a) Requirements for submission of applications by pesticide trainees.

23 (b) Minimum and maximum periods of work or experience required for
24 pesticide trainees.

25 (c) Work performance records or reports to be maintained by pesticide
26 trainees or their employers.

27 (d) Acceptance of educational qualifications, applicable work or experi-
28 ence in similar or other fields in lieu of, or as a part of, periods of employ-
29 ment or work by pesticide trainees.

30 (e) Forms and types of pesticide trainee certificates to be issued by the
31 department, authorizing trainees to apply pesticides in all or part of the

1 classes of operations or businesses set forth in subsection (2) of this section.

2 (f) Laws and requirements relating to other professional, trade or industry
3 trainee or apprenticeship programs in this or other states.

4 (g) Special requirements if the pesticide trainee is to assist a pesticide
5 applicator in the spraying or other application of pesticides by aircraft, and
6 the advisability of allowing participation in federal flight training programs
7 to be substituted, all or in part, for training requirements under this chapter.

8 (2) Establish and maintain classifications of the various pesticides and
9 of the various pest control or pesticide application businesses in order to
10 facilitate the licensing or certification and regulation of pesticide consult-
11 ants, operators, applicators, private applicators and trainees. In this regard
12 the department may take into consideration:

13 (a) Various types, formulations and characteristics of pesticides used and
14 their purposes.

15 (b) Various methods of application of [*such*] **the** pesticides.

16 (c) Precautions required for safe and effective application of [*such*] **the**
17 pesticides.

18 (3) Designate pesticides authorized to be used or applied, or prohibited
19 from use or application, by persons in order to qualify for an exemption un-
20 der ORS 634.106.

21 (4) Establish and maintain classifications of pesticides and devices that
22 are deemed to be highly toxic or restricted-use pesticides or devices. In this
23 regard, the department shall take into consideration:

24 (a) Laws and regulations of the federal government, including the pro-
25 visions of the Federal Insecticide, Fungicide and Rodenticide Act, **7 U.S.C.**
26 **136 et seq.**, as amended, and the Federal Environmental Pesticide Control
27 Act **of 1972, 86 Stat. 973.**

28 (b) Laws and regulations of other states.

29 (c) Advice and counsel of experts in pesticides from industry, universities
30 and colleges and other governmental agencies or bodies.

31 (5) Establish and maintain types of pesticide consultant or applicator ex-

1 aminations and reexaminations, schedules for required reexaminations and
2 other measures deemed necessary for fair and reasonable testing of appli-
3 cants as provided in ORS 634.122 (5).

4 (6) Designate the conditions under which pesticide operators that are or
5 that employ pesticide applicators to spray or otherwise apply pesticides by
6 aircraft may reduce, suspend or terminate the liability insurance required
7 by ORS 634.116, and the periods of time for a reduction, suspension or ter-
8 mination. In this regard, the department may take into consideration:

9 (a) Changes in climate or seasons.

10 (b) Periods when certain crops are or have been harvested.

11 (c) Restricted or limited use of various types or classes of pesticides.

12 (d) Possibilities of injury or death to humans and loss or damage to real
13 or personal property.

14 (7) Establish the conditions and amounts allowed for deductible classes
15 in the liability insurance required by ORS 634.116.

16 (8) Establish and maintain programs of instruction or educational courses
17 for pesticide consultants, operators, applicators and private applicators in
18 cooperation with Oregon State University or others, wherein, as far as is
19 practicable, provisions are made so as to allow *[such]* **the** pesticide operators
20 and applicators to participate only in the instruction or courses directly or
21 indirectly related to their particular activities. Attendance of licensees may
22 be required.

23 (9) Prepare and distribute a manual, or other form of publication, con-
24 taining information helpful and beneficial to individuals engaged in pesticide
25 application or use or to persons preparing to qualify for licensing as a pes-
26 ticide operator, consultant or applicator and establish charges therefor.

27 (10) Establish, from time to time, advisory groups or committees to assist
28 the department in formulation of policies, plans or regulations under this
29 chapter. Each member of any such group or committee so established shall
30 be entitled to compensation and expenses as provided in ORS 292.495, to be
31 charged to the department.

1 (11) Establish registration fees for pesticide brands and formulae or for-
2 mulations under those pesticide brands.

3 (12) Establish restrictions or prohibitions as to the form of pesticides al-
4 lowed to be mixed, applied or added to fertilizers, seed or grains.

5 (13) Establish restrictions, methods and procedures in the storage, trans-
6 portation, use or application of restricted-use pesticides or highly toxic pes-
7 ticides in order to protect humans, pollinating insects, bees, animals, crops,
8 wildlife, land or environment.

9 (14) Establish and maintain a system for certification of private
10 applicators. In this regard, the department shall take into consideration:

11 (a) Laws and regulations of the federal government, including the pro-
12 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.
13 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136
14 et seq., as amended thereby, and regulations thereunder.

15 (b) Minimum periods of experience required and types of experience, ed-
16 ucation or work acceptable.

17 (c) Forms and types of private applicator certificates to be issued by the
18 department, authorizing private applicators to apply pesticides in all or part
19 of the classifications of pesticides set forth in subsection (4) of this section.

20 (15) Establish requirements for the reporting of pesticide sales, distrib-
21 ution or use by any person.

22 **NOTE:** Updates syntax in (2)(b) and (c) and (8); provides full federal ci-
23 tations in (4)(a).

24 **SECTION 57.** ORS 634.306, as amended by section 17, chapter 1059,
25 Oregon Laws 1999, section 8, chapter 833, Oregon Laws 2015, and section 47,
26 chapter 17, Oregon Laws 2017, is amended to read:

27 634.306. In accordance with the provisions of ORS chapter 183, the State
28 Department of Agriculture may adopt rules to carry out the purposes and
29 intent of this chapter, including but not limited to rules that:

30 (1) Establish and maintain a program required for an individual to work
31 or engage in the application or spraying of pesticides as a pesticide trainee.

1 In this regard, the department may take into consideration:

2 (a) Requirements for submission of applications by pesticide trainees.

3 (b) Minimum and maximum periods of work or experience required for
4 pesticide trainees.

5 (c) Work performance records or reports to be maintained by pesticide
6 trainees or their employers.

7 (d) Acceptance of educational qualifications, applicable work or experi-
8 ence in similar or other fields in lieu of, or as a part of, periods of employ-
9 ment or work by pesticide trainees.

10 (e) Forms and types of pesticide trainee certificates to be issued by the
11 department, authorizing trainees to apply pesticides in all or part of the
12 classes of operations or businesses set forth in subsection (2) of this section.

13 (f) Laws and requirements relating to other professional, trade or industry
14 trainee or apprenticeship programs in this or other states.

15 (g) Special requirements if the pesticide trainee is to assist a pesticide
16 applicator in the spraying or other application of pesticides by aircraft, and
17 the advisability of allowing participation in federal flight training programs
18 to be substituted, all or in part, for training requirements under this chapter.

19 (2) Establish and maintain classifications of the various pesticides and
20 of the various pest control or pesticide application businesses in order to
21 facilitate the licensing or certification and regulation of pesticide consult-
22 ants, operators, applicators, private applicators and trainees. In this regard
23 the department may take into consideration:

24 (a) Various types, formulations and characteristics of pesticides used and
25 their purposes.

26 (b) Various methods of application of [*such*] **the** pesticides.

27 (c) Precautions required for safe and effective application of [*such*] **the**
28 pesticides.

29 (3) Designate pesticides authorized to be used or applied, or prohibited
30 from use or application, by persons in order to qualify for an exemption un-
31 der ORS 634.106.

1 (4) Establish and maintain classifications of pesticides and devices that
2 are deemed to be highly toxic or restricted-use pesticides or devices. In this
3 regard, the department shall take into consideration:

4 (a) Laws and regulations of the federal government, including the pro-
5 visions of the Federal Insecticide, Fungicide and Rodenticide Act, **7 U.S.C.**
6 **136 et seq.**, as amended, and the Federal Environmental Pesticide Control
7 Act of 1972, **86 Stat. 973**.

8 (b) Laws and regulations of other states.

9 (c) Advice and counsel of experts in pesticides from industry, universities
10 and colleges and other governmental agencies or bodies.

11 (5) Establish and maintain types of pesticide consultant or applicator ex-
12 aminations and reexaminations, schedules for required reexaminations and
13 other measures deemed necessary for fair and reasonable testing of appli-
14 cants as provided in ORS 634.122 (5).

15 (6) Designate the conditions under which pesticide operators that are or
16 that employ pesticide applicators to spray or otherwise apply pesticides by
17 aircraft may reduce, suspend or terminate the liability insurance required
18 by ORS 634.116, and the periods of time for a reduction, suspension or ter-
19 mination. In this regard, the department may take into consideration:

20 (a) Changes in climate or seasons.

21 (b) Periods when certain crops are or have been harvested.

22 (c) Restricted or limited use of various types or classes of pesticides.

23 (d) Possibilities of injury or death to humans and loss or damage to real
24 or personal property.

25 (7) Establish the conditions and amounts allowed for deductible classes
26 in the liability insurance required by ORS 634.116.

27 (8) Establish and maintain programs of instruction or educational courses
28 for pesticide consultants, operators, applicators and private applicators in
29 cooperation with Oregon State University or others, wherein, as far as is
30 practicable, provisions are made so as to allow *[such]* **the** pesticide operators
31 and applicators to participate only in the instruction or courses directly or

1 indirectly related to their particular activities. Attendance of licensees may
2 be required.

3 (9) Prepare and distribute a manual, or other form of publication, con-
4 taining information helpful and beneficial to individuals engaged in pesticide
5 application or use or to persons preparing to qualify for licensing as a pes-
6 ticide operator, consultant or applicator and establish charges therefor.

7 (10) Establish, from time to time, advisory groups or committees to assist
8 the department in formulation of policies, plans or regulations under this
9 chapter. Each member of any such group or committee so established shall
10 be entitled to compensation and expenses as provided in ORS 292.495, to be
11 charged to the department.

12 (11) Establish registration fees for pesticide brands and formulae or for-
13 mulations under those pesticide brands.

14 (12) Establish restrictions or prohibitions as to the form of pesticides al-
15 lowed to be mixed, applied or added to fertilizers, seed or grains.

16 (13) Establish restrictions, methods and procedures in the storage, trans-
17 portation, use or application of restricted-use pesticides or highly toxic pes-
18 ticides in order to protect humans, pollinating insects, bees, animals, crops,
19 wildlife, land or environment.

20 (14) Establish and maintain a system for certification of private
21 applicators. In this regard, the department shall take into consideration:

22 (a) Laws and regulations of the federal government, including the pro-
23 visions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat.
24 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136
25 et seq., as amended thereby, and regulations thereunder.

26 (b) Minimum periods of experience required and types of experience, ed-
27 ucation or work acceptable.

28 (c) Forms and types of private applicator certificates to be issued by the
29 department, authorizing private applicators to apply pesticides in all or part
30 of the classifications of pesticides set forth in subsection (4) of this section.

31 **NOTE:** Updates syntax in (2)(b) and (c) and (8); provides full federal ci-

1 tations in (4)(a).

2 **SECTION 58.** ORS 646.605 is amended to read:

3 646.605. As used in ORS 336.184 and 646.605 to 646.652:

4 (1) “Appropriate court” means the circuit court of a county:

5 (a) Where one or more of the defendants reside;

6 (b) Where one or more of the defendants maintain a principal place of
7 business;

8 (c) Where one or more of the defendants are alleged to have committed
9 an act prohibited by ORS 336.184 and 646.605 to 646.652; or

10 (d) With the defendant’s consent, where the prosecuting attorney main-
11 tains an office.

12 (2) “Documentary material” means the original or a copy of any book,
13 record, report, memorandum, paper, communication, tabulation, map, chart,
14 photograph, mechanical transcription, or other tangible document or record-
15 ing, wherever [*situate*] **situated**.

16 (3) “Examination” of documentary material includes inspection, study or
17 copying of any [*such*] **documentary** material, and taking testimony under
18 oath or acknowledgment regarding any documentary material or copy
19 thereof.

20 (4) “Person” means natural persons, corporations, trusts, partnerships,
21 incorporated or unincorporated associations and any other legal entity ex-
22 cept bodies or officers acting under statutory authority of this state or the
23 United States.

24 (5) “Prosecuting attorney” means the Attorney General or the district
25 attorney of any county in which a violation of ORS 336.184 and 646.605 to
26 646.652 is alleged to have occurred.

27 (6)(a) “Real estate, goods or services” means those that are or may be
28 obtained primarily for personal, family or household purposes, or that are
29 or may be obtained for any purposes as a result of a telephone solicitation,
30 and includes loans and extensions of credit, and franchises, distributorships
31 and other similar business opportunities, but does not include insurance.

1 (b) Notwithstanding paragraph (a) of this subsection:

2 (A) "Real estate" does not cover conduct covered by ORS chapter 90.

3 (B) "Loans and extensions of credit" does not include transactions in-
4 volving a pawnbroker, as defined in ORS 726.010, that is required to be li-
5 censed under ORS chapter 726.

6 (7) "Telephone solicitation" means a solicitation where a person, in the
7 course of the person's business, vocation or occupation, uses a telephone or
8 an automatic dialing-announcing device to initiate telephonic contact with
9 a potential customer and the person is not one of the following:

10 (a) A person who is a broker-dealer or salesperson licensed under ORS
11 59.175, or a mortgage banker or mortgage broker licensed under ORS 86A.106,
12 when the solicitation is for a security qualified for sale pursuant to ORS
13 59.055.

14 (b) A real estate licensee or a person who is otherwise authorized to en-
15 gage in professional real estate activity pursuant to ORS chapter 696, when
16 the solicitation involves professional real estate activity.

17 (c) A person licensed or exempt from licensure as a builder pursuant to
18 ORS chapter 701, when the solicitation involves the construction, alteration,
19 repair, improvement or demolition of a structure.

20 (d) A person licensed or otherwise authorized to sell insurance as an in-
21 surance producer pursuant to ORS chapter 744, when the solicitation in-
22 volves insurance.

23 (e) A person soliciting the sale of a newspaper of general circulation, a
24 magazine or membership in a book or record club who complies with ORS
25 646.611, when the solicitation involves newspapers, magazines or membership
26 in a book or record club.

27 (f) A person soliciting without the intent to complete and who does not
28 complete the sales presentation during the telephone solicitation and who
29 only completes the sales presentation at a later face-to-face meeting between
30 the solicitor and the prospective purchaser.

31 (g) A supervised financial institution or parent, subsidiary or affiliate

1 thereof. As used in this paragraph, “supervised financial institution” means
2 any financial institution or trust company, as those terms are defined in ORS
3 706.008, or any personal property broker, consumer finance lender, commer-
4 cial finance lender or insurer that is subject to regulation by an official or
5 agency of this state or of the United States.

6 (h) A person who is authorized to conduct prearrangement or precon-
7 struction funeral or cemetery sales, pursuant to ORS chapter 692, when the
8 solicitation involves prearrangement or preconstruction funeral or cemetery
9 plans.

10 (i) A person who solicits the services provided by a cable television sys-
11 tem licensed or franchised pursuant to state, local or federal law, when the
12 solicitation involves cable television services.

13 (j) A person or affiliate of a person whose business is regulated by the
14 Public Utility Commission of Oregon.

15 (k) A person who sells farm products as defined by ORS 576.006 if the
16 solicitation neither intends to nor actually results in a sale that costs the
17 purchaser in excess of \$100.

18 (L) An issuer or subsidiary of an issuer that has a class of securities that
19 is subject to section 12 of the Securities Exchange Act of 1934 and that is
20 either registered or exempt from registration under paragraph (A), (B), (C),
21 (E), (F), (G) or (H) or subsection (g) of that section.

22 (m) A person soliciting exclusively the sale of telephone answering ser-
23 vices to be provided by that person or that person’s employer when the so-
24 licitation involves answering services.

25 (n) A telecommunications utility with access lines of 15,000 or less or a
26 cooperative telephone association when the solicitation involves regulated
27 goods or services.

28 (8) “Trade” and “commerce” mean advertising, offering or distributing,
29 whether by sale, rental or otherwise, any real estate, goods or services, and
30 include any trade or commerce directly or indirectly affecting the people of
31 this state.

1 (9) “Unconscionable tactics” include, but are not limited to, actions by
2 which a person:

3 (a) Knowingly takes advantage of a customer’s physical infirmity, igno-
4 rance, illiteracy or inability to understand the language of the agreement;

5 (b) Knowingly permits a customer to enter into a transaction from which
6 the customer will derive no material benefit;

7 (c) Permits a customer to enter into a transaction with knowledge that
8 there is no reasonable probability of payment of the attendant financial ob-
9 ligation in full by the customer when due; or

10 (d) Knowingly takes advantage of a customer who is a disabled veteran,
11 a disabled servicemember or a servicemember in active service, or the spouse
12 of a disabled veteran, disabled servicemember or servicemember in active
13 service. For purposes of this paragraph:

14 (A) “Disabled veteran” has the meaning given that term in ORS 408.225.

15 (B) “Disabled servicemember” means a servicemember, as defined in 50
16 U.S.C. [*App. 511*] **3911** as in effect on January 1, 2010, who may be entitled
17 to disability compensation under laws administered by the United States
18 Department of Veterans Affairs.

19 (C) “Servicemember in active service” means:

20 (i) A servicemember called into active service under Title 10 or Title 32
21 of the United States Code as in effect on January 1, 2010; or

22 (ii) A servicemember on state active duty, as defined in the Oregon Code
23 of Military Justice.

24 (10) A willful violation occurs when the person committing the violation
25 knew or should have known that the conduct of the person was a violation.

26 (11) A loan is made “in close connection with the sale of a manufactured
27 dwelling” if:

28 (a) The lender directly or indirectly controls, is controlled by or is under
29 common control with the seller, unless the relationship is remote and is not
30 a factor in the transaction;

31 (b) The lender gives a commission, rebate or credit in any form to a seller

1 who refers the borrower to the lender, other than payment of the proceeds
2 of the loan jointly to the seller and the borrower;

3 (c) The lender is related to the seller by blood or marriage;

4 (d) The seller directly and materially assists the borrower in obtaining
5 the loan;

6 (e) The seller prepares documents that are given to the lender and used
7 in connection with the loan; or

8 (f) The lender supplies documents to the seller used by the borrower in
9 obtaining the loan.

10 **NOTE:** Updates word choice in (2); supplies defined term in (3); adjusts
11 reference in (9)(d)(B) to reflect federal code reorganization.

12 **SECTION 59.** ORS 646.608 is amended to read:

13 646.608. (1) A person engages in an unlawful practice if in the course of
14 the person's business, vocation or occupation the person does any of the
15 following:

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

18 (b) Causes likelihood of confusion or of misunderstanding as to the
19 source, sponsorship, approval, or certification of real estate, goods or ser-
20 vices.

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

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

25 (e) Represents that real estate, goods or services have sponsorship, ap-
26 proval, characteristics, ingredients, uses, benefits, quantities or qualities that
27 the real estate, goods or services do not have or that a person has a spon-
28 sorship, approval, status, qualification, affiliation, or connection that the
29 person does not have.

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

1 secondhand.

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

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

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

11 (j) Makes false or misleading representations of fact concerning the rea-
12 sons for, existence of, or amounts of price reductions.

13 (k) Makes false or misleading representations concerning credit avail-
14 ability or the nature of the transaction or obligation incurred.

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

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

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

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

31 (p) Makes any false or misleading statement about a prize, contest or

1 promotion used to publicize a product, business or service.

2 (q) Promises to deliver real estate, goods or services within a certain pe-
3 riod of time with intent not to deliver the real estate, goods or services as
4 promised.

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

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

9 (t) Concurrent with tender or delivery of any real estate, goods or ser-
10 vices fails to disclose any known material defect or material nonconformity.

11 (u) Engages in any other unfair or deceptive conduct in trade or com-
12 merce.

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

16 (w) Manufactures mercury fever thermometers.

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

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

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

23 (y) Sells a thermostat that contains mercury unless the thermostat is la-
24 beled in a manner to inform the purchaser that mercury is present in the
25 thermostat and that the thermostat may not be disposed of until the mercury
26 is removed, reused, recycled or otherwise managed to ensure that the mer-
27 cury does not become part of the solid waste stream or wastewater. For
28 purposes of this paragraph, "thermostat" means a device commonly used to
29 sense and, through electrical communication with heating, cooling or venti-
30 lation equipment, control room temperature.

31 (z) Sells or offers for sale a motor vehicle manufactured after January 1,

- 1 2006, that contains mercury light switches.
- 2 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
- 3 (bb) Violates ORS 646A.070 (1).
- 4 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
- 5 (dd) Violates the provisions of ORS 128.801 to 128.898.
- 6 (ee) Violates ORS 646.883 or 646.885.
- 7 (ff) Violates ORS 646.569.
- 8 (gg) Violates the provisions of ORS 646A.142.
- 9 (hh) Violates ORS 646A.360.
- 10 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 11 (jj) Violates ORS 646.563.
- 12 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 13 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any
14 rule adopted pursuant thereto.
- 15 (mm) Violates ORS 646A.210 or 646A.214.
- 16 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 17 (oo) Violates ORS 646A.095.
- 18 (pp) Violates ORS 822.046.
- 19 (qq) Violates ORS 128.001.
- 20 (rr) Violates ORS 646A.800 (2) to (4).
- 21 (ss) Violates ORS 646A.090 (2) to (5).
- 22 (tt) Violates ORS 87.686.
- 23 (uu) Violates ORS 646A.803.
- 24 (vv) Violates ORS 646A.362.
- 25 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
26 646A.054.
- 27 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 28 (yy) Commits the offense of acting as a vehicle dealer without a certif-
29 icate under ORS 822.005.
- 30 (zz) Violates ORS 87.007 (2) or (3).
- 31 (aaa) Violates ORS 92.405 (1), (2) or (3).

- 1 (bbb) Engages in an unlawful practice under ORS 646.648.
2 (ccc) Violates ORS 646A.365.
3 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under
4 ORS 98.864.
5 (eee) Sells a gift card in violation of ORS 646A.276.
6 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
7 (ggg) Violates ORS 646A.430 to 646A.450.
8 (hhh) Violates a provision of ORS 744.318 to 744.384.
9 (iii) Violates a provision of ORS 646A.702 to 646A.720.
10 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning
11 or declaration described in ORS 646A.530 is issued for the children's product,
12 as defined in ORS 646A.525, that is the subject of the violation.
13 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,
14 697.682, 697.692 or 697.707.
15 (LLL) Violates the consumer protection provisions of the Servicemembers
16 Civil Relief Act, 50 U.S.C. [App. 501] **3901** et seq., as in effect on January
17 1, 2010.
18 (mmm) Violates a provision of ORS 646A.480 to 646A.495.
19 (nnn) Violates ORS 646A.082.
20 (ooo) Violates ORS 646.647.
21 (ppp) Violates ORS 646A.115.
22 (qqq) Violates a provision of ORS 646A.405.
23 (rrr) Violates ORS 646A.092.
24 (sss) Violates a provision of ORS 646.644.
25 (ttt) Violates a provision of ORS 646A.295.
26 (uuu) Violates ORS 646A.564.
27 (vvv) Engages in the business of, or acts in the capacity of, an immi-
28 gration consultant, as defined in ORS 9.280, in this state and for compen-
29 sation, unless federal law authorizes the person to do so or unless the person
30 is an active member of the Oregon State Bar.
31 (www) Violates ORS 702.012, 702.029 or 702.054.

1 (xxx) Violates ORS 646A.806.

2 (yyy) Violates ORS 646A.810 (2).

3 (zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws
4 2015.

5 (aaaa) Violates ORS 443.376.

6 (2) A representation under subsection (1) of this section or ORS 646.607
7 may be any manifestation of any assertion by words or conduct, including,
8 but not limited to, a failure to disclose a fact.

9 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605
10 to 646.652, a prosecuting attorney need not prove competition between the
11 parties or actual confusion or misunderstanding.

12 (4) An action or suit may not be brought under subsection (1)(u) of this
13 section unless the Attorney General has first established a rule in accord-
14 ance with the provisions of ORS chapter 183 declaring the conduct to be
15 unfair or deceptive in trade or commerce.

16 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to
17 646.652, if an action or suit is brought under subsection (1)(xx) of this section
18 by a person other than a prosecuting attorney, relief is limited to an in-
19 junction and the prevailing party may be awarded reasonable attorney fees.

20 **NOTE:** Adjusts reference in (1)(LLL) to reflect federal code reorganiza-
21 tion.

22 **SECTION 60.** ORS 646.608, as amended by section 10, chapter 523, Oregon
23 Laws 2015, section 15, chapter 113, Oregon Laws 2017, section 3, chapter 241,
24 Oregon Laws 2017, section 16, chapter 480, Oregon Laws 2017, and section
25 6, chapter 656, Oregon Laws 2017, is amended to read:

26 646.608. (1) A person engages in an unlawful practice if in the course of
27 the person's business, vocation or occupation the person does any of the
28 following:

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

31 (b) Causes likelihood of confusion or of misunderstanding as to the

1 source, sponsorship, approval, or certification of real estate, goods or ser-
2 vices.

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

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

7 (e) Represents that real estate, goods or services have sponsorship, ap-
8 proval, characteristics, ingredients, uses, benefits, quantities or qualities that
9 the real estate, goods or services do not have or that a person has a spon-
10 sorship, approval, status, qualification, affiliation, or connection that the
11 person does not have.

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

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

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

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

24 (j) Makes false or misleading representations of fact concerning the rea-
25 sons for, existence of, or amounts of price reductions.

26 (k) Makes false or misleading representations concerning credit avail-
27 ability or the nature of the transaction or obligation incurred.

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

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

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

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

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

15 (q) Promises to deliver real estate, goods or services within a certain pe-
16 riod of time with intent not to deliver the real estate, goods or services as
17 promised.

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

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

22 (t) Concurrent with tender or delivery of any real estate, goods or ser-
23 vices fails to disclose any known material defect or material nonconformity.

24 (u) Engages in any other unfair or deceptive conduct in trade or com-
25 merce.

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

29 (w) Manufactures mercury fever thermometers.

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

- 1 (A) Prescribed by a person licensed under ORS chapter 677; and
- 2 (B) Supplied with instructions on the careful handling of the thermometer
3 to avoid breakage and on the proper cleanup of mercury should breakage
4 occur.
- 5 (y) Sells a thermostat that contains mercury unless the thermostat is la-
6 beled in a manner to inform the purchaser that mercury is present in the
7 thermostat and that the thermostat may not be disposed of until the mercury
8 is removed, reused, recycled or otherwise managed to ensure that the mer-
9 cury does not become part of the solid waste stream or wastewater. For
10 purposes of this paragraph, “thermostat” means a device commonly used to
11 sense and, through electrical communication with heating, cooling or venti-
12 lation equipment, control room temperature.
- 13 (z) Sells or offers for sale a motor vehicle manufactured after January 1,
14 2006, that contains mercury light switches.
- 15 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
- 16 (bb) Violates ORS 646A.070 (1).
- 17 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
- 18 (dd) Violates the provisions of ORS 128.801 to 128.898.
- 19 (ee) Violates ORS 646.883 or 646.885.
- 20 (ff) Violates ORS 646.569.
- 21 (gg) Violates the provisions of ORS 646A.142.
- 22 (hh) Violates ORS 646A.360.
- 23 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 24 (jj) Violates ORS 646.563.
- 25 (kk) Violates ORS 759.680 or any rule adopted pursuant thereto.
- 26 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any
27 rule adopted pursuant thereto.
- 28 (mm) Violates ORS 646A.210 or 646A.214.
- 29 (nn) Violates any provision of ORS 646A.124 to 646A.134.
- 30 (oo) Violates ORS 646A.095.
- 31 (pp) Violates ORS 822.046.

- 1 (qq) Violates ORS 128.001.
- 2 (rr) Violates ORS 646A.800 (2) to (4).
- 3 (ss) Violates ORS 646A.090 (2) to (5).
- 4 (tt) Violates ORS 87.686.
- 5 (uu) Violates ORS 646A.803.
- 6 (vv) Violates ORS 646A.362.
- 7 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or
8 646A.054.
- 9 (xx) Violates ORS 180.440 (1) or 180.486 (1).
- 10 (yy) Commits the offense of acting as a vehicle dealer without a certif-
11 icate under ORS 822.005.
- 12 (zz) Violates ORS 87.007 (2) or (3).
- 13 (aaa) Violates ORS 92.405 (1), (2) or (3).
- 14 (bbb) Engages in an unlawful practice under ORS 646.648.
- 15 (ccc) Violates ORS 646A.365.
- 16 (ddd) Violates ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under
17 ORS 98.864.
- 18 (eee) Sells a gift card in violation of ORS 646A.276.
- 19 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
- 20 (ggg) Violates ORS 646A.430 to 646A.450.
- 21 (hhh) Violates a provision of ORS 744.318 to 744.384.
- 22 (iii) Violates a provision of ORS 646A.702 to 646A.720.
- 23 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning
24 or declaration described in ORS 646A.530 is issued for the children's product,
25 as defined in ORS 646A.525, that is the subject of the violation.
- 26 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662,
27 697.682, 697.692 or 697.707.
- 28 (LLL) Violates the consumer protection provisions of the Servicemembers
29 Civil Relief Act, 50 U.S.C. [App. 501] **3901** et seq., as in effect on January
30 1, 2010.
- 31 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

1 (nnn) Violates ORS 646A.082.

2 (ooo) Violates ORS 646.647.

3 (ppp) Violates ORS 646A.115.

4 (qqq) Violates a provision of ORS 646A.405.

5 (rrr) Violates ORS 646A.092.

6 (sss) Violates a provision of ORS 646.644.

7 (ttt) Violates a provision of ORS 646A.295.

8 (uuu) Violates ORS 646A.564.

9 (vvv) Engages in the business of, or acts in the capacity of, an immi-
10 gration consultant, as defined in ORS 9.280, in this state and for compen-
11 sation, unless federal law authorizes the person to do so or unless the person
12 is an active member of the Oregon State Bar.

13 (www) Violates ORS 702.012, 702.029 or 702.054.

14 (xxx) Violates ORS 646A.806.

15 (yyy) Violates ORS 646A.810 (2).

16 (zzz) Violates ORS 443.376.

17 (2) A representation under subsection (1) of this section or ORS 646.607
18 may be any manifestation of any assertion by words or conduct, including,
19 but not limited to, a failure to disclose a fact.

20 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605
21 to 646.652, a prosecuting attorney need not prove competition between the
22 parties or actual confusion or misunderstanding.

23 (4) An action or suit may not be brought under subsection (1)(u) of this
24 section unless the Attorney General has first established a rule in accord-
25 ance with the provisions of ORS chapter 183 declaring the conduct to be
26 unfair or deceptive in trade or commerce.

27 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to
28 646.652, if an action or suit is brought under subsection (1)(xx) of this section
29 by a person other than a prosecuting attorney, relief is limited to an in-
30 junction and the prevailing party may be awarded reasonable attorney fees.

31 **NOTE:** Adjusts reference in (1)(LLL) to reflect federal code reorganiza-

1 tion.

2 **SECTION 61.** ORS 646.633 is amended to read:

3 646.633. (1) For purposes of this section, “state regulated lender” means:

4 (a) A banking institution as defined in ORS 706.008;

5 (b) A credit union as defined in ORS 723.006;

6 (c) A person that is required to be licensed under ORS 725.045;

7 (d) A pawnbroker, as defined in ORS 726.010, that is required to be li-
8 censed under ORS chapter 726; [*or*]

9 (e) A mortgage banker[,] **or** mortgage broker [*or loan originator*], as those
10 terms are defined in ORS 86A.100, that is required to be licensed under ORS
11 86A.095 to 86A.198[.]; **or**

12 **(f) A mortgage loan originator that is required to be licensed under**
13 **ORS 86A.200 to 86A.239.**

14 (2) A prosecuting attorney may not take action under ORS 646.618 or
15 646.632 with respect to an alleged unlawful practice under ORS 646.607 or
16 646.608 when the conduct involves loans or extensions of credit and was en-
17 gaged in by a state regulated lender unless requested to do so by the Director
18 of the Department of Consumer and Business Services. In any action re-
19 quested to be taken by the director under this subsection, the director may
20 elect to be named as a party to the proceeding or suit.

21 (3) The Attorney General may not adopt rules under ORS 646.608 (4) with
22 respect to conduct involving loans or extensions of credit that is engaged in
23 by a state regulated lender except with the prior review and approval of the
24 proposed rules by the director. The Attorney General may not adopt rules
25 under ORS 646.608 (4) with respect to conduct involving loans or extensions
26 of credit that is engaged in by a state regulated lender except as provided
27 in this subsection.

28 (4) As soon as practicable upon receipt, the Attorney General shall pro-
29 vide the director with copies of any complaint or other initial pleading or
30 any judgment received under ORS 646.638 when the action involves the con-
31 duct of a state regulated lender.

1 **NOTE:** Removes term from (1)(e) and creates (1)(f) to reflect correct term
2 and licensing statutes.

3 **SECTION 62.** ORS 656.005 is amended to read:

4 656.005. (1) “Average weekly wage” means the Oregon average weekly
5 wage in covered employment, as determined by the Employment Department,
6 for the last quarter of the calendar year preceding the fiscal year in which
7 the injury occurred.

8 (2)(a) “Beneficiary” means an injured worker, and the spouse in a mar-
9 riage, child or dependent of a worker, who is entitled to receive payments
10 under this chapter.

11 (b) “Beneficiary” does not include:

12 (A) A spouse of an injured worker living in a state of abandonment for
13 more than one year at the time of the injury or subsequently. A spouse who
14 has lived separate and apart from the worker for a period of two years and
15 who has not during that time received or attempted by process of law to
16 collect funds for support or maintenance is considered living in a state of
17 abandonment.

18 (B) A person who intentionally causes the compensable injury to or death
19 of an injured worker.

20 (3) “Board” means the Workers’ Compensation Board.

21 (4) “Carrier-insured employer” means an employer who provides workers’
22 compensation coverage with the State Accident Insurance Fund Corporation
23 or an insurer authorized under ORS chapter 731 to transact workers’ com-
24 pensation insurance in this state.

25 (5) “Child” means a child of an injured worker, including:

26 (a) A posthumous child;

27 (b) A child legally adopted before the injury;

28 (c) A child toward whom the worker stands in loco parentis;

29 (d) A child born out of wedlock;

30 (e) A stepchild, if the stepchild was, at the time of the injury, a member
31 of the worker’s family and substantially dependent upon the worker for

1 support; and

2 (f) A child of any age who was an invalid at the time of the accident and
3 thereafter remains an invalid substantially dependent on the worker for
4 support.

5 (6) "Claim" means a written request for compensation from a subject
6 worker or someone on the worker's behalf, or any compensable injury of
7 which a subject employer has notice or knowledge.

8 (7)(a) A "compensable injury" is an accidental injury, or accidental injury
9 to prosthetic appliances, arising out of and in the course of employment re-
10 quiring medical services or resulting in disability or death[;]. An injury is
11 accidental if the result is an accident, whether or not due to accidental
12 means, if it is established by medical evidence supported by objective
13 findings, subject to the following limitations:

14 (A) [No] **An** injury or disease is **not** compensable as a consequence of a
15 compensable injury unless the compensable injury is the major contributing
16 cause of the consequential condition.

17 (B) If an otherwise compensable injury combines at any time with a pre-
18 existing condition to cause or prolong disability or a need for treatment, the
19 combined condition is compensable only if, so long as and to the extent that
20 the otherwise compensable injury is the major contributing cause of the
21 disability of the combined condition or the major contributing cause of the
22 need for treatment of the combined condition.

23 (b) "Compensable injury" does not include:

24 (A) Injury to any active participant in assaults or combats [*which*] **that**
25 are not connected to the job assignment and [*which*] **that** amount to a de-
26 viation from customary duties;

27 (B) Injury incurred while engaging in or performing, or as the result of
28 engaging in or performing, any recreational or social activities primarily for
29 the worker's personal pleasure; or

30 (C) Injury the major contributing cause of which is demonstrated to be
31 by a preponderance of the evidence the injured worker's consumption of al-

1 alcoholic beverages or cannabis or the unlawful consumption of any controlled
2 substance, unless the employer permitted, encouraged or had actual knowl-
3 edge of such consumption.

4 (c) A “disabling compensable injury” is an injury [*which*] **that** entitles the
5 worker to compensation for disability or death. An injury is not disabling
6 if no temporary benefits are due and payable, unless there is a reasonable
7 expectation that permanent disability will result from the injury.

8 (d) A “nondisabling compensable injury” is any injury [*which*] **that** re-
9 quires medical services only.

10 (8) “Compensation” includes all benefits, including medical services, pro-
11 vided for a compensable injury to a subject worker or the worker’s benefi-
12 ciaries by an insurer or self-insured employer pursuant to this chapter.

13 (9) “Department” means the Department of Consumer and Business Ser-
14 vices.

15 (10)(a) “Dependent” means any of the following relatives of the worker
16 who, at the time of an accident, depended in whole or in part for the
17 relative’s support on the earnings of a worker who dies as a result of an
18 injury:

19 (A) A parent, grandparent or stepparent;

20 (B) A grandson or granddaughter;

21 (C) A brother or sister or half-brother or half-sister; and

22 (D) A niece or nephew.

23 (b) “Dependent” does not include an alien who does not reside within the
24 United States at the time of the accident, other than a parent, a spouse or
25 children, unless a treaty provides otherwise.

26 (11) “Director” means the Director of the Department of Consumer and
27 Business Services.

28 (12)(a) “Doctor” or “physician” means a person duly licensed to practice
29 one or more of the healing arts in any country or in any state, territory or
30 possession of the United States within the limits of the license of the
31 [*licentiate*] **licensee**.

1 (b) Except as otherwise provided for workers subject to a managed care
2 contract, “attending physician” means a doctor, physician or physician as-
3 sistant who is primarily responsible for the treatment of a worker’s
4 compensable injury and who is:

5 (A) A physician licensed under ORS 677.100 to 677.228 by the Oregon
6 Medical Board, or a podiatric physician and surgeon licensed under ORS
7 677.805 to 677.840 by the Oregon Medical Board, an oral and maxillofacial
8 surgeon licensed by the Oregon Board of Dentistry or a similarly licensed
9 doctor in any country or in any state, territory or possession of the United
10 States; or

11 (B) For a cumulative total of 60 days from the first visit on the initial
12 claim or for a cumulative total of 18 visits, whichever occurs first, to any
13 of the medical service providers listed in this subparagraph, a:

14 (i) Doctor or physician licensed by the State Board of Chiropractic Ex-
15 aminers for the State of Oregon under ORS chapter 684 or a similarly li-
16 censed doctor or physician in any country or in any state, territory or
17 possession of the United States;

18 (ii) Physician assistant licensed by the Oregon Medical Board in accord-
19 ance with ORS 677.505 to 677.525 or a similarly licensed physician assistant
20 in any country or in any state, territory or possession of the United States;
21 or

22 (iii) Doctor of naturopathy or naturopathic physician licensed by the
23 Oregon Board of Naturopathic Medicine under ORS chapter 685 or a simi-
24 larly licensed doctor or physician in any country or in any state, territory
25 or possession of the United States.

26 (c) Except as otherwise provided for workers subject to a managed care
27 contract, “attending physician” does not include a physician who provides
28 care in a hospital emergency room and refers the injured worker to a pri-
29 mary care physician for follow-up care and treatment.

30 (d) “Consulting physician” means a doctor or physician who examines a
31 worker or the worker’s medical record to advise the attending physician or

1 nurse practitioner authorized to provide compensable medical services under
2 ORS 656.245 regarding treatment of a worker's compensable injury.

3 (13)(a) "Employer" means any person, including receiver, administrator,
4 executor or trustee, and the state, state agencies, counties, municipal corpo-
5 rations, school districts and other public corporations or political subdi-
6 visions, [*who*] **that** contracts to pay a remuneration for and secures the right
7 to direct and control the services of any person.

8 (b) Notwithstanding paragraph (a) of this subsection, for purposes of this
9 chapter, the client of a temporary service provider is not the employer of
10 temporary workers provided by the temporary service provider.

11 (c) As used in paragraph (b) of this subsection, "temporary service pro-
12 vider" has the meaning for that term provided in ORS 656.850.

13 (14) "Insurer" means the State Accident Insurance Fund Corporation or
14 an insurer authorized under ORS chapter 731 to transact workers' compen-
15 sation insurance in this state or an assigned claims agent selected by the
16 director under ORS 656.054.

17 (15) "Consumer and Business Services Fund" means the fund created by
18 ORS 705.145.

19 (16) "Invalid" means one who is physically or mentally incapacitated from
20 earning a livelihood.

21 (17) "Medically stationary" means that no further material improvement
22 would reasonably be expected from medical treatment[,] or the passage of
23 time.

24 (18) "Noncomplying employer" means a subject employer [*who*] **that** has
25 failed to comply with ORS 656.017.

26 (19) "Objective findings" in support of medical evidence are verifiable
27 indications of injury or disease that may include, but are not limited to,
28 range of motion, atrophy, muscle strength and palpable muscle spasm. "Ob-
29 jective findings" does not include physical findings or subjective responses
30 to physical examinations that are not reproducible, measurable or observa-
31 ble.

1 (20) “Palliative care” means medical service rendered to reduce or mod-
2 erate temporarily the intensity of an otherwise stable medical condition, but
3 does not include those medical services rendered to diagnose, heal or per-
4 manently alleviate or eliminate a medical condition.

5 (21) “Party” means a claimant for compensation, the employer of the in-
6 jured worker at the time of injury and the insurer, if any, of [*such*] **the** em-
7 ployer.

8 (22) “Payroll” means a record of wages payable to workers for their ser-
9 vices and includes commissions, value of exchange labor and the reasonable
10 value of board, rent, housing, lodging or similar advantage received from the
11 employer. However, “payroll” does not include overtime pay, vacation pay,
12 bonus pay, tips, amounts payable under profit-sharing agreements or bonus
13 payments to reward workers for safe working practices. Bonus pay is limited
14 to payments [*which*] **that** are not anticipated under the contract of employ-
15 ment and [*which*] **that** are paid at the sole discretion of the employer. The
16 exclusion from payroll of bonus payments to reward workers for safe working
17 practices is only for the purpose of calculations based on payroll to deter-
18 mine premium for workers’ compensation insurance, and does not affect any
19 other calculation or determination based on payroll for the purposes of this
20 chapter.

21 (23) “Person” includes **a** partnership, joint venture, association, limited
22 liability company and corporation.

23 (24)(a) “Preexisting condition” means, for all industrial injury claims, any
24 injury, disease, congenital abnormality, personality disorder or similar con-
25 dition that contributes to disability or need for treatment, provided that:

26 (A) Except for claims in which a preexisting condition is arthritis or an
27 arthritic condition, the worker has been diagnosed with [*such*] **the** condition,
28 or has obtained medical services for the symptoms of the condition regardless
29 of diagnosis; and

30 (B)(i) In claims for an initial injury or omitted condition, the diagnosis
31 or treatment precedes the initial injury;

1 (ii) In claims for a new medical condition, the diagnosis or treatment
2 precedes the onset of the new medical condition; or

3 (iii) In claims for a worsening pursuant to ORS 656.273 or 656.278, the
4 diagnosis or treatment precedes the onset of the worsened condition.

5 (b) “Preexisting condition” means, for all occupational disease claims, any
6 injury, disease, congenital abnormality, personality disorder or similar con-
7 dition that contributes to disability or need for treatment and that precedes
8 the onset of the claimed occupational disease, or precedes a claim for wors-
9 ening in such claims pursuant to ORS 656.273 or 656.278.

10 (c) For the purposes of industrial injury claims, a condition does not
11 contribute to disability or need for treatment if the condition merely renders
12 the worker more susceptible to the injury.

13 (25) “Self-insured employer” means an employer or group of employers
14 certified under ORS 656.430 as meeting the qualifications set out by ORS
15 656.407.

16 (26) “State Accident Insurance Fund Corporation” and “corporation”
17 mean the State Accident Insurance Fund Corporation created under ORS
18 656.752.

19 (27) “Subject employer” means an employer [*who*] **that** is subject to this
20 chapter as provided by ORS 656.023.

21 (28) “Subject worker” means a worker who is subject to this chapter as
22 provided by ORS 656.027.

23 (29) “Wages” means the money rate at which the service rendered is
24 recompensed under the contract of hiring in force at the time of the accident,
25 including reasonable value of board, rent, housing, lodging or similar ad-
26 vantage received from the employer, and includes the amount of tips required
27 to be reported by the employer pursuant to section 6053 of the Internal
28 Revenue Code of 1954, as amended, and the regulations promulgated pursuant
29 thereto, or the amount of actual tips reported, whichever amount is greater.
30 The State Accident Insurance Fund Corporation may establish assumed
31 minimum and maximum wages, in conformity with recognized insurance

1 principles, at which any worker shall be carried upon the payroll of the
2 employer for the purpose of determining the premium of the employer.

3 (30) “Worker” means any person, including a minor whether lawfully or
4 unlawfully employed, who engages to furnish services for a remuneration,
5 subject to the direction and control of an employer and includes salaried,
6 elected and appointed officials of the state, state agencies, counties, cities,
7 school districts and other public corporations, but does not include any per-
8 son whose services are performed as an inmate or ward of a state institution
9 or as part of the eligibility requirements for a general or public assistance
10 grant. For the purpose of determining entitlement to temporary disability
11 benefits or permanent total disability benefits under this chapter, “worker”
12 does not include a person who has withdrawn from the workforce during the
13 period for which such benefits are sought.

14 (31) “Independent contractor” has the meaning for that term provided in
15 ORS 670.600.

16 **NOTE:** Corrects punctuation in (7)(a) and (17); improves syntax in
17 (7)(a)(A) and (23); updates word choice in (7)(b)(A), (c) and (d), (12)(a), (13)(a),
18 (18), (21), (22), (24)(a)(A) and (27).

19 **SECTION 63.** ORS 657.855 is amended to read:

20 657.855. (1) Except as provided in this section, benefits due under this
21 chapter may not be assigned, pledged, encumbered, released or commuted.
22 [and] **Benefits due under this chapter** shall, except as otherwise provided
23 in this chapter, be exempt from all claims of creditors and from levy, exe-
24 cution and attachment or remedy for recovery or collection of a debt,
25 [which] **and the** exemption may not be waived. No agreement by an indi-
26 vidual to waive the individual’s rights under this chapter is valid.

27 (2) The exemption from execution or other process granted under this
28 section applies to only 50 percent of benefits payable under this chapter if
29 the execution or other process is issued for a child support obligation or an
30 order or notice entered pursuant to **ORS 416.400 to 416.465** or ORS chapter
31 25, 107, 108, 109, 110, [416,] 419B or 419C and the child support obligation or

1 the order or notice is being enforced pursuant to a plan approved under Title
2 IV-D of the Social Security Act.

3 **NOTE:** Improves sentence structure in (1); eliminates inappropriate
4 chapter reference and substitutes appropriate series reference in (2).

5 **SECTION 64.** ORS 676.220 is amended to read:

6 676.220. (1) If at any time the board suspending or revoking the license
7 of any [*licentiate*] **licensee** of a health care profession determines that [*such*
8 *licentiate*] **the licensee** is continuing to practice the health care profession
9 notwithstanding, the board shall in its own name bring an action to enjoin
10 [*such licentiate*] **the licensee**.

11 (2) If the court [*shall find*] **finds** that the [*licentiate*] **licensee** has been
12 or is continuing the practice of the health care profession for which the li-
13 cense has been revoked or suspended, **the court** [*it*] shall issue an injunction
14 restraining the [*licentiate*] **licensee**. The commission of a single act consti-
15 tuting the practice of the respective health care profession shall be prima
16 facie evidence warranting the issuance of [*such*] **an** injunction.

17 **NOTE:** Updates terminology in (1) and (2); improves syntax and punctu-
18 ation in (2).

19 **SECTION 65.** ORS 689.689 is amended to read:

20 689.689. (1) In accordance with rules adopted by the State Board of
21 Pharmacy under ORS 689.205, a pharmacist may prescribe and administer
22 injectable hormonal contraceptives and prescribe and dispense self-
23 administered hormonal contraceptives to a person who is:

24 (a) At least 18 years of age, regardless of whether the person has evidence
25 of a previous prescription from a primary care practitioner or women's
26 health care practitioner for an injectable hormonal contraceptive or a self-
27 administered hormonal contraceptive; or

28 (b) Under 18 years of age, only if the person has evidence of a previous
29 prescription from a primary care practitioner or women's health care prac-
30 titioner for an injectable hormonal contraceptive or a self-administered
31 hormonal contraceptive.

1 (2)(a) The board shall adopt rules to establish, in consultation with the
2 Oregon Medical Board, the Oregon State Board of Nursing and the Oregon
3 Health Authority, and in consideration of guidelines established by the
4 American [*Congress*] **College** of Obstetricians and Gynecologists **or its suc-**
5 **cessor organization**, standard procedures for the prescribing of injectable
6 hormonal contraceptives and self-administered hormonal contraceptives by
7 pharmacists.

8 (b) The rules adopted under this subsection must require a pharmacist to:

9 (A) Complete a training program approved by the State Board of Phar-
10 macy that is related to prescribing injectable hormonal contraceptives and
11 self-administered hormonal contraceptives;

12 (B) Provide a self-screening risk assessment tool that the patient must
13 use prior to the pharmacist's prescribing the injectable hormonal
14 contraceptive or self-administered hormonal contraceptive;

15 (C) Refer the patient to the patient's primary care practitioner or
16 women's health care practitioner upon prescribing and administering the
17 injectable hormonal contraceptive or prescribing and dispensing the self-
18 administered hormonal contraceptive;

19 (D) Provide the patient with a written record of the injectable hormonal
20 contraceptive prescribed and administered or the self-administered hormonal
21 contraceptive prescribed and dispensed and advise the patient to consult with
22 a primary care practitioner or women's health care practitioner; and

23 (E) Administer the injectable hormonal contraceptive or dispense the
24 self-administered hormonal contraceptive to the patient as soon as practica-
25 ble after the pharmacist issues the prescription.

26 (c) The rules adopted under this subsection must prohibit a pharmacist
27 from:

28 (A) Requiring a patient to schedule an appointment with the pharmacist
29 for the prescribing or administering of an injectable hormonal contraceptive
30 or the prescribing or dispensing of a self-administered hormonal
31 contraceptive; and

1 (B) Prescribing and administering an injectable hormonal contraceptive
2 or prescribing and dispensing a self-administered hormonal contraceptive to
3 a patient who does not have evidence of a clinical visit for women's health
4 within the three years immediately following the initial prescription and
5 administration of an injectable hormonal contraceptive or the initial pre-
6 scription and dispensation of a self-administered hormonal contraceptive by
7 a pharmacist to the patient.

8 (3) All state and federal laws governing insurance coverage of
9 contraceptive drugs, devices, products and services [*shall*] apply to injectable
10 hormonal contraceptives and self-administered hormonal contraceptives pre-
11 scribed by a pharmacist under this section.

12 **NOTE:** Updates organization title and provides for future name changes
13 in (2)(a); improves syntax in (3).

14 **SECTION 66.** ORS 689.689, as amended by section 3, chapter 649, Oregon
15 Laws 2015, and section 3, chapter 289, Oregon Laws 2017, is amended to read:

16 689.689. (1) In accordance with rules adopted by the State Board of
17 Pharmacy under ORS 689.205, a pharmacist may prescribe and administer
18 injectable hormonal contraceptives and prescribe and dispense self-
19 administered hormonal contraceptives.

20 (2)(a) The board shall adopt rules to establish, in consultation with the
21 Oregon Medical Board, the Oregon State Board of Nursing and the Oregon
22 Health Authority, and in consideration of guidelines established by the
23 American [*Congress*] **College** of Obstetricians and Gynecologists **or its suc-**
24 **cessor organization**, standard procedures for the prescribing of injectable
25 hormonal contraceptives and self-administered hormonal contraceptives by
26 pharmacists.

27 (b) The rules adopted under this subsection must require a pharmacist to:

28 (A) Complete a training program approved by the State Board of Phar-
29 macy that is related to prescribing injectable hormonal contraceptives and
30 self-administered hormonal contraceptives;

31 (B) Provide a self-screening risk assessment tool that the patient must

1 use prior to the pharmacist's prescribing the injectable hormonal
2 contraceptive or self-administered hormonal contraceptive;

3 (C) Refer the patient to the patient's primary care practitioner or
4 women's health care practitioner upon prescribing and administering the
5 injectable hormonal contraceptive or prescribing and dispensing the self-
6 administered hormonal contraceptive;

7 (D) Provide the patient with a written record of the injectable hormonal
8 contraceptive prescribed and administered or the self-administered hormonal
9 contraceptive prescribed and dispensed and advise the patient to consult with
10 a primary care practitioner or women's health care practitioner; and

11 (E) Administer the injectable hormonal contraceptive or dispense the
12 self-administered hormonal contraceptive to the patient as soon as practica-
13 ble after the pharmacist issues the prescription.

14 (c) The rules adopted under this subsection must prohibit a pharmacist
15 from:

16 (A) Requiring a patient to schedule an appointment with the pharmacist
17 for the prescribing or administering of an injectable hormonal contraceptive
18 or the prescribing or dispensing of a self-administered hormonal
19 contraceptive; and

20 (B) Prescribing and administering an injectable hormonal contraceptive
21 or prescribing and dispensing a self-administered hormonal contraceptive to
22 a patient who does not have evidence of a clinical visit for women's health
23 within the three years immediately following the initial prescription and
24 administration of an injectable hormonal contraceptive or the initial pre-
25 scription and dispensation of a self-administered hormonal contraceptive by
26 a pharmacist to the patient.

27 (3) All state and federal laws governing insurance coverage of
28 contraceptive drugs, devices, products and services [*shall*] apply to injectable
29 hormonal contraceptives and self-administered hormonal contraceptives pre-
30 scribed by a pharmacist under this section.

31 **NOTE:** Updates organization title and provides for future name changes

1 in (2)(a); improves syntax in (3).

2 **SECTION 67.** ORS 734.810 is amended to read:

3 734.810. (1) If a member insurer is an impaired insurer, the Oregon Life
4 and Health Insurance Guaranty Association, in its discretion and subject to
5 any conditions imposed by the association and approved by the Director of
6 the Department of Consumer and Business Services, other than those
7 [*which*] **that** impair the contractual obligations of the impaired insurer, may:

8 (a) Guarantee, assume or reinsure, or cause to be guaranteed, assumed
9 or reinsured, any or all of the covered policies of the impaired insurer.

10 (b) Provide such moneys, pledges, notes, loans, guarantees or other means
11 as are proper to implement paragraph (a) of this subsection and ensure pay-
12 ment of the contractual obligations of the impaired insurer pending action
13 under paragraph (a) of this subsection.

14 (2) If a member insurer is an insolvent insurer, the association, in its
15 discretion and subject to the approval of the director, shall take either of the
16 following steps:

17 (a)(A) Guarantee, assume or reinsure, or cause to be guaranteed, assumed
18 or reinsured, the covered policies of the insolvent insurer;

19 (B) Ensure payment of the contractual obligations of the insolvent
20 insurer; and

21 (C) Provide such moneys, pledges, notes, loans, guarantees or other means
22 as are reasonably necessary to discharge such duties.

23 (b) Provide benefits and coverages in accordance with the following pro-
24 visions:

25 (A) For life and health insurance policies and annuity contracts, the as-
26 sociation shall ensure that the payment of benefits for premiums, except for
27 terms of conversion and renewability, under the replacement coverage pro-
28 vided by the association is identical to the payment of benefits for premiums
29 that would have been payable under the policies or contracts of the insolvent
30 insurer, for claims incurred:

31 (i) With respect to group policies and contracts, not later than the earlier

1 of the next renewal date under those policies or contracts or 45 days, but in
2 no event less than 30 days, after the date on which the association becomes
3 obligated with respect to the policies or contracts.

4 (ii) With respect to nongroup policies and contracts, if any, not later than
5 the earlier of the next renewal date under those policies or contracts or one
6 year, but in no event less than 30 days, after the date on which the associ-
7 ation becomes obligated with respect to the policies or contracts.

8 (B) The association shall make diligent efforts to provide a 30-day notice
9 of the termination of the benefits provided under subparagraph (A) of this
10 paragraph to all known insureds or annuitants for nongroup policies and
11 contracts, or to group policyholders or contract owners with respect to group
12 policies and contracts.

13 (C) For nongroup life and health insurance policies and annuities covered
14 by the association, the association shall make substitute coverage available
15 to each known insured or annuitant, or owner if other than the insured or
16 annuitant. For an individual formerly insured or formerly an annuitant un-
17 der a group policy who is not eligible for replacement group coverage, the
18 association shall make available substitute coverage on an individual basis
19 in accordance with the provisions of subparagraph (D) of this paragraph, if
20 the insureds or annuitants had a right under law or under the terminated
21 policy or annuity to convert coverage to individual coverage or to continue
22 an individual policy or annuity that was already in force until a specified
23 age or for a specified time, during which the insurer had no right to make
24 changes unilaterally in any provision of the policy or annuity or had a right
25 to make changes only to premiums or to classes of risk.

26 (D) In providing the substitute coverage required under subparagraph (C)
27 of this paragraph, the association:

28 (i) May offer either to reissue the terminated coverage or to issue an al-
29 ternative policy.

30 (ii) Shall offer alternative or reissued policies without requiring evidence
31 of insurability.

1 (iii) May not impose any waiting period or exclusion that would not have
2 applied under the terminated policy.

3 (iv) May reinsure any alternative or reissued policy.

4 (E) Any alternative policy adopted by the association must:

5 (i) Be approved by the Director of the Department of Consumer and
6 Business Services and the court. The association may adopt alternative pol-
7 icies of various types for future issuance without regard to any particular
8 impairment or insolvency.

9 (ii) Contain at least the minimum statutory provisions required in this
10 state and provide benefits that are not unreasonable in relation to the pre-
11 mium charged. The association shall set the premium in accordance with a
12 table of rates adopted by the association. The premium shall reflect the
13 amount of insurance to be provided and the age and class of risk of each
14 insured, but may not reflect any changes in the health of the insured after
15 the original policy was last underwritten.

16 (iii) Provide coverage of a type similar to that of the policy issued by the
17 insolvent insurer, as determined by the association.

18 (F) If the association elects to reissue terminated coverage at a premium
19 rate that is different from the premium rate that was charged under the
20 terminated policy, the premium rate shall be set by the association, in ac-
21 cordance with the amount of insurance provided and the age and class of
22 risk, and be subject to approval by the Director of the Department of Con-
23 sumer and Business Services and the court.

24 (G) The association's obligations with respect to coverage under any pol-
25 icy of the insolvent insurer or under any reissued or alternative policy shall
26 cease on the date on which the coverage or policy is replaced by another
27 similar policy by the policyholder, the insured or the association.

28 (H) When proceeding under this subsection with respect to a policy or
29 contract that carries a guaranteed minimum interest rate, the association
30 shall ensure the payment or crediting of a rate of interest consistent with
31 the provisions of ORS 734.790 (3).

1 (3) Nonpayment of premiums within 31 days after the date required under
2 the terms of any guaranteed, assumed, alternative or reissued policy or con-
3 tract or substitute coverage shall terminate the association's obligations
4 under the policy, contract or substitute coverage under ORS 734.750 to
5 734.890 with respect to the policy, contract or substitute coverage, except
6 with respect to any claims incurred or any net cash surrender value or net
7 cash withdrawal value that may be due in accordance with the provisions
8 of ORS 734.750 to 734.890.

9 (4) Premiums due for coverage after entry of an order of liquidation of
10 an insolvent insurer shall belong to and be payable at the direction of the
11 association. At the request of the liquidator of an insolvent insurer, the as-
12 sociation shall provide a report to the liquidator regarding any premium
13 collected by the association. The association is liable for unearned premiums
14 due to policyholders or contract owners arising after the entry of the order.

15 (5) The protection provided by ORS 734.750 to 734.890 does not apply
16 where any guaranty protection is provided to residents of this state by the
17 laws of the domiciliary state or jurisdiction of the impaired or insolvent
18 insurer other than this state.

19 (6)(a) In carrying out its duties under subsection (2) of this section, the
20 association may impose permanent policy liens or contract liens in con-
21 nection with any guaranteed, assumption or reinsurance agreement, if the
22 court considering the lien finds that the amounts that can be assessed under
23 ORS 734.750 to 734.890 are less than the amounts needed to ensure full and
24 prompt performance of the insolvent insurer's contractual obligations or that
25 the economic or financial conditions affecting member insurers are suffi-
26 ciently adverse to render the imposition of policy or contract liens to be in
27 the public interest, and approves the specific policy liens or contract liens
28 to be used.

29 (b) In carrying out its duties under subsection (2) of this section, the as-
30 sociation may request that there be imposed temporary moratoriums or liens
31 on payments of cash values and policy loans or temporary moratoriums on

1 the right to withdraw funds held in conjunction with the policies or con-
2 tracts, in addition to any contractual provisions for deferral of cash or policy
3 loan values, and such temporary moratoriums and liens may be imposed if
4 they are approved by the court. In addition, in the event of a temporary
5 moratorium or moratorium charge imposed by the court on payment of cash
6 values or policy loan values, or on any other right to withdraw funds held
7 in conjunction with policies or contracts, out of the assets of the impaired
8 or insolvent insurer, the association may defer the payment of cash values,
9 policy loan values and other rights by the association for the period of the
10 temporary moratorium or moratorium charge that is imposed by the court,
11 except for claims that are covered by the association to be paid in accord-
12 ance with a hardship procedure that is established by the liquidator or
13 rehabilitator and approved by the court.

14 (7) If the association fails to act as required in subsection (2) of this
15 section within a reasonable time, the director shall have the powers and
16 duties of the association under ORS 734.750 to 734.890 with respect to insol-
17 vent insurers.

18 (8) The association may render assistance and advice to the director, upon
19 request of the director, concerning rehabilitation, payment of claims, con-
20 tinuance of coverage or the performance of other contractual obligations of
21 any impaired or insolvent insurer.

22 (9) The association shall have standing to intervene or appear before any
23 court or agency in this state having jurisdiction over an impaired or insol-
24 vent insurer concerning which the association is or may become obligated
25 under ORS 734.750 to 734.890 or with jurisdiction over any person or property
26 against which the association has rights through subrogation or otherwise.
27 Such standing shall extend to all matters germane to the powers and duties
28 of the association including, but not limited to, proposals for reinsuring,
29 modifying or guaranteeing the covered policies of the impaired or insolvent
30 insurer and the determination of the covered policies and contractual obli-
31 gations. The association may also appear or intervene before a court or

1 agency in another state with jurisdiction over an impaired or insolvent
2 insurer for which the association is or may become obligated or with juris-
3 diction over any person or property against whom the association may have
4 rights through subrogation or otherwise.

5 (10)(a) Any person receiving benefits under ORS 734.750 to 734.890 shall
6 be considered to have assigned the rights under, and any causes of action
7 against any person for losses arising under, resulting from or otherwise re-
8 lating to, the covered policy to the association to the extent of the benefits
9 received because of ORS 734.750 to 734.890, whether the benefits are pay-
10 ments of or on account of contractual obligations or continuation of cover-
11 age. The association may require an assignment to the association of such
12 rights by any payee, policyholder, contract owner, beneficiary, insured or
13 annuitant as a condition precedent to the receipt of any rights or benefits
14 conferred by ORS 734.750 to 734.890 upon such person. The association shall
15 be subrogated to these rights against the assets of any impaired or insolvent
16 insurer.

17 (b) The subrogation rights of the association under this subsection shall
18 have the same priority against the assets of the impaired or insolvent insurer
19 as that possessed by the person entitled to receive benefits under ORS
20 734.750 to 734.890.

21 (c) In addition to the rights set forth in paragraphs (a) and (b) of this
22 subsection, the association may exercise any common law rights of
23 subrogation or any other equitable or legal remedy that would have been
24 available to the impaired or insolvent insurer or to the policyholder or con-
25 tract owner, beneficiary or payee of a policy or contract with respect to the
26 policy or contract. In the case of a structured settlement annuity, these
27 rights include but are not limited to any rights of the policyholder or con-
28 tract owner, beneficiary or payee of the annuity, to the extent of benefits
29 received under ORS 734.750 to 734.890, against a person originally or by
30 succession responsible for the losses arising from the personal injury relating
31 to the annuity or payment therefor, with the exception of a person respon-

1 sible solely by reason of serving as an assignee in respect of a qualified as-
2 signment under section 130 of the federal Internal Revenue Code.

3 (d) If the provisions of this subsection are determined by a court to be
4 invalid or ineffective with respect to any person or claim for any reason, the
5 association shall reduce the amount payable by the association with respect
6 to the related covered obligations by the amount realized by any other per-
7 son with respect to the person or claim that is attributable to the policies
8 or contracts covered by the association.

9 (e) If the association provides benefits with respect to a covered obli-
10 gation and a person recovers amounts to which the association has rights
11 as described in this subsection, the person shall pay to the association the
12 portion of the recovery attributable to the policies or contracts covered by
13 the association.

14 (11) The contractual obligations of the impaired or insolvent insurer for
15 which the association becomes or may become liable may not exceed the
16 [*lesser*] **least** of:

17 (a) The contractual obligations for which the impaired or insolvent
18 insurer is liable or would have been liable if it were not an impaired or in-
19 solvent insurer, unless such obligations are reduced as permitted by sub-
20 section (6) of this section;

21 (b) With respect to any one life, regardless of the number of policies or
22 contracts:

23 (A) \$300,000 in life insurance death benefits, but not more than \$100,000
24 in net cash surrender and net cash withdrawal values for life insurance.

25 (B) \$100,000 in health insurance benefits other than basic hospital, med-
26 ical and surgical insurance, major medical insurance, disability insurance
27 or long term care insurance, including any net cash surrender and net cash
28 withdrawal values.

29 (C) \$300,000 in disability insurance benefits.

30 (D) \$300,000 in long term care insurance benefits.

31 (E) \$500,000 in basic hospital, medical and surgical insurance or major

1 medical insurance.

2 (F) \$250,000 in the present value of annuity benefits, including any net
3 cash surrender and net cash withdrawal values;

4 (c) With respect to each payee of a structured settlement annuity or the
5 beneficiary of the payee if deceased, \$250,000 in the present value of annuity
6 benefits, in the aggregate, including any net cash surrender and net cash
7 withdrawal values; or

8 (d) \$250,000 in the present value of annuity benefits, in the aggregate,
9 including any net cash surrender and net cash withdrawal values, with re-
10 spect to each individual participating in a governmental retirement plan es-
11 tablished under section 401, 403(b) or 457 of the United States Internal
12 Revenue Code covered by an unallocated annuity contract or the benefi-
13 cians of each such individual if deceased.

14 (12) The association may not be liable for more than:

15 (a) \$300,000 in benefits, in the aggregate, with respect to any one life
16 under subsection (11)(b), (c) and (d) of this section, with the exception of
17 benefits under subsection (11)(b)(E) of this section, in which case the aggre-
18 gate liability of the association may not exceed \$500,000 with respect to any
19 one life.

20 (b) With respect to one policyholder of multiple nongroup policies of life
21 insurance, regardless of whether the policyholder is an individual, firm,
22 corporation or other person, and whether the persons insured are officers,
23 managers, employees or other persons, \$5 million in benefits, regardless of
24 the number of policies and contracts held by the policyholder.

25 (13) The limitations set forth in subsections (11) and (12) of this section
26 are limitations on the benefits for which the association is obligated before
27 taking into account either its subrogation and assignment rights or the ex-
28 tent to which those benefits could be provided out of the assets of the im-
29 paired or insolvent insurer attributable to covered policies. The costs of the
30 association's obligations under ORS 734.750 to 734.890 may be met by the use
31 of assets attributable to covered policies or reimbursed to the association

1 under its subrogation and assignment rights.

2 (14) In performing its obligations to provide coverage under ORS 734.750
3 to 734.890, the association is not required to guarantee, assume, reinsure or
4 perform, or cause to be guaranteed, assumed, reinsured or performed, any
5 contractual obligation of the impaired or insolvent insurer or contract owner
6 under a covered policy that does not materially affect the economic values
7 or economic benefits of the covered policy or contract.

8 (15) The association may:

9 (a) Enter into such contracts as are necessary or proper to carry out the
10 provisions and purposes of ORS 734.750 to 734.890.

11 (b) Sue or be sued, including taking any legal actions necessary or proper
12 for recovery of any unpaid assessments under ORS 734.815 and to settle
13 claims or potential claims against the association.

14 (c) Borrow money to effect the purposes of ORS 734.750 to 734.890. Any
15 notes or other evidence of indebtedness of the association not in default shall
16 be legal investments for member insurers and may be carried as admitted
17 assets.

18 (d) Employ or retain such persons as are necessary to handle the financial
19 transactions of the association, and to perform such other functions as be-
20 come necessary or proper under ORS 734.750 to 734.890.

21 (e) Negotiate and contract with any liquidator, rehabilitator, conservator
22 or ancillary receiver to carry out the powers and duties of the association.

23 (f) Take such legal action as may be necessary to avoid payment of im-
24 proper claims.

25 (g) Exercise, for the purposes of ORS 734.750 to 734.890 and to the extent
26 approved by the director, the powers of a member life or health insurer, but
27 in no case may the association issue policies other than those issued to
28 perform the contractual obligations of the impaired or insolvent insurer.

29 (h) Organize itself as a corporation or other legal form permitted by the
30 laws of this state.

31 (i) Request information from a person seeking coverage from the associ-

1 ation to aid the association in determining its obligations under ORS 734.750
2 to 734.890 with respect to that person.

3 (j) Take any other necessary or appropriate action to discharge its duties
4 and obligations and to exercise its powers under ORS 734.750 to 734.890.

5 (16) The duties and powers of the association described in this section are
6 in addition to any other duties and powers of the association described in
7 ORS 734.750 to 734.890.

8 (17)(a) Within 180 days after the date of the order of liquidation, the as-
9 sociation may succeed to the rights and obligations of the ceding member
10 insurer that relate to policies or annuities covered, in whole or in part, by
11 the association, in each case under any one or more reinsurance contracts
12 entered into by the insolvent insurer and its reinsurers and selected by the
13 association. Any such assumption shall be effective as of the date of the or-
14 der of liquidation. The election shall be effected by the association sending
15 written notice, return receipt requested, to the affected reinsurers.

16 (b) To facilitate the earliest practicable decision about whether to assume
17 any of the contracts of reinsurance, and in order to protect the financial
18 position of the estate, the receiver and each reinsurer of the ceding member
19 insurer shall make available upon request to the association as soon as
20 possible after commencement of formal delinquency proceedings copies of
21 in-force contracts of reinsurance and all related files and records relevant
22 to the determination of whether such contracts should be assumed, and no-
23 tices of any defaults under the reinsurance contracts or any known event or
24 condition which with the passage of time could become a default under the
25 reinsurance contracts.

26 (c) For any reinsurance contracts assumed by the association under par-
27 agraphs (a) and (b) of this subsection:

28 (A) The association is responsible for all unpaid premiums due under the
29 reinsurance contracts for periods both before and after the date of the order
30 of liquidation, and shall be responsible for the performance of all other ob-
31 ligations to be performed after the date of the order of liquidation, related

1 to policies or annuities covered by the reinsurance contract, in whole or in
2 part, by the association. The association may charge policies or annuities
3 covered in part by the association, through reasonable allocation methods,
4 the costs for reinsurance in excess of the obligations of the association and
5 shall provide notice and an accounting of those charges to the liquidator.

6 (B) The association is entitled to any amounts payable by the reinsurer
7 under the reinsurance contracts with respect to losses or events that occur
8 in periods after the date of the order of liquidation and that relate to policies
9 or annuities covered, in whole or in part, by the association. Upon receipt
10 of any such amounts, the association shall pay the beneficiary under the
11 policy or annuity on account of which the amounts were paid a portion of
12 the amount equal to the lesser of:

13 (i) The amount received by the association; or

14 (ii) The amount received by the association that is in excess of the
15 amount equal to the benefits paid by the association on account of the policy
16 or annuity minus the amount retained by the insurer applicable to the loss
17 or event.

18 (C) Within 30 days following the association's election, the association
19 and each reinsurer shall calculate the net balance due to or from the asso-
20 ciation under each reinsurance contract as of the election date with respect
21 to policies or annuities covered, in whole or in part, by the association. The
22 calculation shall give full credit to all items paid by the insurer or its re-
23 ceiver or by the reinsurer prior to the election date. The reinsurer shall pay
24 the receiver any amounts due for losses or events prior to the date of the
25 order of liquidation, subject to any setoff for premiums unpaid for periods
26 prior to that date, and the association or the reinsurer shall pay any re-
27 maining balance due to one another. The reinsurer and the association shall
28 make such payments within five days after the completion of the calculation
29 of the net balance due under each reinsurance contract. Any disputes over
30 the amounts due to the association or the reinsurer shall be resolved by ar-
31 bitration according to the terms of the affected reinsurance contracts or, if

1 the contract contains no arbitration clause, as otherwise provided by law.
2 If the receiver has received any amounts due the association under subpar-
3 agraph (B) of this paragraph, the receiver shall remit the amounts to the
4 association as promptly as practicable.

5 (d) If the association, or the receiver on the association's behalf, within
6 60 days after the election date pays the unpaid premiums due for periods both
7 before and after the election date that relate to policies or annuities covered,
8 in whole or in part, by the association, the reinsurer may not terminate the
9 reinsurance contracts for failure to pay premiums insofar as the reinsurance
10 contracts relate to policies or annuities covered, in whole or in part, by the
11 association, and may not set off any unpaid amounts due under other con-
12 tracts, or unpaid amounts due from parties other than the association,
13 against amounts due to the association.

14 (e)(A) During the period from the date of the order of liquidation until
15 the election date or, if the election date does not occur, 180 days after the
16 date of the order of liquidation:

17 (i) Neither the association nor the reinsurer shall have any rights or ob-
18 ligations under reinsurance contracts that the association has the right to
19 assume under paragraph (a) of this subsection, whether for periods prior to
20 or after the date of the order of liquidation; and

21 (ii) The reinsurer, the receiver and the association shall, to the extent
22 practicable, provide to each other data and records that are reasonably re-
23 quested.

24 (B) After the association has elected to assume a reinsurance contract,
25 the parties' rights and obligations shall be governed by paragraph (a) of this
26 subsection.

27 (f) If the association does not elect to assume a reinsurance contract by
28 the election date under paragraph (a) of this subsection, the association shall
29 have no rights or obligations, for periods both before and after the date of
30 the order of liquidation, with respect to the reinsurance contract.

31 (g) When policies or annuities, or covered obligations related to policies

1 or annuities, are transferred to an assuming insurer, the association may
2 also transfer reinsurance on the policies or annuities for contracts assumed
3 under paragraph (a) of this subsection, subject to the following:

4 (A) Unless the reinsurer and the assuming insurer agree otherwise, the
5 reinsurance contract transferred may not cover any new policies of insurance
6 or annuities in addition to those transferred;

7 (B) The obligations described in paragraph (a) of this subsection shall no
8 longer apply with respect to matters arising after the effective date of the
9 transfer; and

10 (C) The transferring party shall give notice in writing, return receipt re-
11 quested, to the affected reinsurer not less than 30 days before the effective
12 date of the transfer.

13 (h) The provisions of this subsection shall supersede any other provision
14 of law or any affected reinsurance contract that provides for or requires any
15 payment of reinsurance proceeds, on account of losses or events that occur
16 in periods after the date of the order of liquidation, to the receiver or any
17 other person. The receiver shall remain entitled to any amounts payable by
18 the reinsurer under the reinsurance contract with respect to losses or events
19 that occur in periods prior to the date of the order of liquidation, subject to
20 applicable setoff provisions.

21 (i) Except as otherwise provided in this subsection, nothing in this section
22 shall:

23 (A) Alter or modify the terms and conditions of any reinsurance contract;

24 (B) Abrogate or limit any rights of any reinsurer to claim that the re-
25 insurer is entitled to rescind a reinsurance contract;

26 (C) Grant a policyholder, contract owner or beneficiary an independent
27 cause of action against a reinsurer that is not otherwise set forth in the re-
28 insurance contract;

29 (D) Limit or affect the association's rights as a creditor of the estate
30 against the assets of the estate; or

31 (E) Apply to reinsurance agreements covering property or casualty risks.

1 (18) The board of directors of the association may exercise reasonable
2 business judgment to determine the means by which the association is to
3 provide the benefits under ORS 734.750 to 734.890 in an economical and effi-
4 cient manner.

5 (19) If the association has arranged or offered to provide the benefits of
6 ORS 734.750 to 734.890 to a covered person under a plan or arrangement that
7 fulfills the association's obligations under this section, the person is not
8 entitled to benefits from the association in addition to or other than those
9 provided under the plan or arrangement.

10 (20) Venue in a suit against the association arising under ORS 734.750 to
11 734.890 shall be in the Circuit Court for Marion County.

12 (21) In carrying out its duties in connection with guaranteeing, assuming
13 or reinsuring policies or contracts under this section, the association may,
14 subject to approval of the court, issue substitute coverage for a policy or
15 contract that provides an interest rate, crediting rate or similar factor de-
16 termined by use of an index or other external reference stated in the policy
17 or contract for the purpose of calculating returns or changes in value by
18 issuing an alternative policy or contract in accordance with all of the fol-
19 lowing provisions:

20 (a) In lieu of the index or other external reference provided for in the
21 original policy or contract, the alternative policy or contract provides for a
22 fixed interest rate, payment of dividends with minimum guarantees, or a
23 different method for calculating interest or changes in value.

24 (b) There is no requirement for evidence of insurability, waiting period
25 or other exclusion that would not have applied under the original policy or
26 contract.

27 (c) The alternative policy or contract is substantially similar to the ori-
28 ginal policy or contract in all other material terms.

29 **NOTE:** Improves word choice in (1) and (11) lead-ins.

30 **SECTION 68.** ORS 750.055, as amended by section 9, chapter 7, Oregon
31 Laws 2018, is amended to read:

1 750.055. (1) The following provisions apply to health care service con-
2 tractors to the extent not inconsistent with the express provisions of ORS
3 750.005 to 750.095:

4 (a) ORS 705.137, 705.138 and 705.139.

5 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
6 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
7 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,
8 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
9 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

10 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and
11 732.517 to 732.596, not including ORS 732.582.

12 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
13 733.680 and 733.695 to 733.780.

14 (e) ORS 734.014 to 734.440.

15 [(f) ORS 735.600 to 735.650.]

16 [(g)] (f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150
17 to 742.162 and 742.518 to 742.542.

18 [(h)] (g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019,
19 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050,
20 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495,
21 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656,
22 743.680 to 743.689, 743.788 and 743.790.

23 [(i)] (h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
24 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
25 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
26 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
27 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
28 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188,
29 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2, chapter
30 771, Oregon Laws 2013.

31 [(j)] (i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195

1 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
2 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to
3 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340,
4 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407,
5 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475,
6 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 and section 5,
7 chapter 7, Oregon Laws 2018.

8 [(k)] (j) The following provisions of ORS chapter 744:

9 (A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to
10 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regu-
11 lation of insurance producers;

12 (B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650,
13 744.655 and 744.665, relating to the regulation of insurance consultants; and

14 (C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
15 ministrators.

16 [(L)] (k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600,
17 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655,
18 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

19 (2) The following provisions of the Insurance Code apply to health care
20 service contractors except in the case of group practice health maintenance
21 organizations that are federally qualified pursuant to Title XIII of the Public
22 Health Service Act:

23 (a) ORS 731.485, if the group practice health maintenance organization
24 wholly owns and operates an in-house drug outlet.

25 (b) ORS 743A.024, unless the patient is referred by a physician, physician
26 assistant or nurse practitioner associated with a group practice health
27 maintenance organization.

28 (3) For the purposes of this section, health care service contractors are
29 insurers.

30 (4) Any for-profit health care service contractor organized under the laws
31 of any other state that is not governed by the insurance laws of the other

1 state is subject to all requirements of ORS chapter 732.

2 (5)(a) A health care service contractor is a domestic insurance company
3 for the purpose of determining whether the health care service contractor is
4 a debtor, as defined in 11 U.S.C. 109.

5 (b) A health care service contractor's classification as a domestic insur-
6 ance company under paragraph (a) of this subsection does not subject the
7 health care service contractor to ORS 734.510 to 734.710.

8 (6) The Director of the Department of Consumer and Business Services
9 may, after notice and hearing, adopt reasonable rules not inconsistent with
10 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
11 for the proper administration of these provisions.

12 **NOTE:** Excises reference to repealed series in (1)(f).

13 **SECTION 69.** ORS 750.055, as amended by section 21, chapter 771, Oregon
14 Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45,
15 Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chap-
16 ter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section
17 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws
18 2015, section 30, chapter 515, Oregon Laws 2015, section 10, chapter 206,
19 Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017, section 22,
20 chapter 479, Oregon Laws 2017, and section 10, chapter 7, Oregon Laws 2018,
21 is amended to read:

22 750.055. (1) The following provisions apply to health care service con-
23 tractors to the extent not inconsistent with the express provisions of ORS
24 750.005 to 750.095:

25 (a) ORS 705.137, 705.138 and 705.139.

26 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385,
27 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as pro-
28 vided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509,
29 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731,
30 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

31 (c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and

1 732.517 to 732.596, not including ORS 732.582.

2 (d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to
3 733.680 and 733.695 to 733.780.

4 (e) ORS 734.014 to 734.440.

5 [(f) ORS 735.600 to 735.650.]

6 [(g)] (f) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150
7 to 742.162 and 742.518 to 742.542.

8 [(h)] (g) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019,
9 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050,
10 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495,
11 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656,
12 743.680 to 743.689, 743.788 and 743.790.

13 [(i)] (h) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
14 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
15 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
16 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
17 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
18 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188,
19 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

20 [(j)] (i) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195
21 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252,
22 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to
23 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340,
24 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407,
25 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475,
26 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 and section 5,
27 chapter 7, Oregon Laws 2018.

28 [(k)] (j) The following provisions of ORS chapter 744:

29 (A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to
30 744.033, 744.037, 744.052 to 744.089, 744.091 and 744.093, relating to the regu-
31 lation of insurance producers;

1 (B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650,
2 744.655 and 744.665, relating to the regulation of insurance consultants; and

3 (C) ORS 744.700 to 744.740, relating to the regulation of third party ad-
4 ministrators.

5 [(L)] (k) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600,
6 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655,
7 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

8 (2) The following provisions of the Insurance Code apply to health care
9 service contractors except in the case of group practice health maintenance
10 organizations that are federally qualified pursuant to Title XIII of the Public
11 Health Service Act:

12 (a) ORS 731.485, if the group practice health maintenance organization
13 wholly owns and operates an in-house drug outlet.

14 (b) ORS 743A.024, unless the patient is referred by a physician, physician
15 assistant or nurse practitioner associated with a group practice health
16 maintenance organization.

17 (3) For the purposes of this section, health care service contractors are
18 insurers.

19 (4) Any for-profit health care service contractor organized under the laws
20 of any other state that is not governed by the insurance laws of the other
21 state is subject to all requirements of ORS chapter 732.

22 (5)(a) A health care service contractor is a domestic insurance company
23 for the purpose of determining whether the health care service contractor is
24 a debtor, as defined in 11 U.S.C. 109.

25 (b) A health care service contractor's classification as a domestic insur-
26 ance company under paragraph (a) of this subsection does not subject the
27 health care service contractor to ORS 734.510 to 734.710.

28 (6) The Director of the Department of Consumer and Business Services
29 may, after notice and hearing, adopt reasonable rules not inconsistent with
30 this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
31 for the proper administration of these provisions.

1 **NOTE:** Excises reference to repealed series in (1)(f).

2 **SECTION 70.** ORS 822.235 is amended to read:

3 822.235. (1) If a tower recovers a vehicle after a theft, the vehicle is to-
4 taled and the vehicle has no applicable insurance coverage, the person who
5 is the owner of the vehicle may transfer the person's interest in the vehicle
6 to the tower in payment or partial payment of the tower's fees for recovery
7 and storage of the vehicle.

8 (2) A tower that accepts a transfer of interest in a vehicle from a person
9 under this section may not assess fees against the person for storage of the
10 totaled vehicle that occurs on and after the date of the transfer of interest.

11 (3) Notwithstanding the provisions for liens under ORS 98.812 and
12 [98.835] **98.830**, if a person transfers their interest in a vehicle under this
13 section to a tower within 14 days of the date the person receives notice under
14 ORS 98.857, the tower may not bring an action against the person for, or
15 otherwise take any affirmative steps to collect or permit an agency or
16 assignee to collect, any amount as compensation for towing, caring for or
17 storing the totaled vehicle.

18 (4) A tower that receives title under this section is responsible for any
19 fees imposed by the Department of Transportation for transferring title.

20 **NOTE:** Substitutes equivalent citation for repealed statute in (3).

21
