

LC 605
2019 Regular Session
OSB00-013
10/8/18 (MNJ/ps)

D R A F T

SUMMARY

Removes provisions prohibiting Oregon State Bar from charging membership fees to members admitted to practice law for 50 years or more.

Modifies provisions relating to information provided to bar by Department of Revenue. Provides that investigatory information developed or obtained by bar from department is confidential except in certain circumstances.

Modifies provisions regarding submission of certification and disclosures for lawyer trust accounts.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to regulation of lawyers; amending ORS 9.191, 9.565 and 9.675; and
3 prescribing an effective date.

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

5 **SECTION 1.** ORS 9.191 is amended to read:

6 9.191. (1) Except as provided in subsection (2) of this section, the annual
7 membership fees to be paid by members of the Oregon State Bar shall be
8 established by the Board of Governors of the Oregon State Bar, and each
9 year notice of the proposed fees for the coming year shall be published and
10 distributed to the membership not later than 20 days before the annual
11 meeting of the house of delegates. Any increase in annual membership fees
12 over the amount established for the preceding year must be approved by a
13 majority of delegates of the house of delegates voting thereon at the annual
14 meeting of the house of delegates. The board shall establish the date by
15 which annual membership fees must be paid.

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

7 (3) In establishing annual membership fees, the board shall consider and
8 be guided by the anticipated financial needs of the state bar for the year for
9 which the fees are established, time periods of membership and active or in-
10 active status of members. Annual membership fees may include any amount
11 assessed under any plan for professional liability insurance for active mem-
12 bers engaged in the private practice of law whose principal offices are in
13 Oregon as provided in ORS 9.080 (2). *[The board may not require that a*
14 *member who has been admitted to practice law in Oregon for 50 years or more*
15 *pay membership fees, assessments or any amount under ORS 9.645, except that*
16 *the member shall be required to pay any amount assessed under any plan for*
17 *professional liability insurance if the member is engaged in the private practice*
18 *of law and the member's principal office is in Oregon.]*

19 **SECTION 2.** ORS 9.565 is amended to read:

20 9.565. *[The Department of Revenue may furnish to the Oregon State Bar the*
21 *name and address, if known, of any person admitted to practice law in this*
22 *state who prepares a return or report permitted or required to be filed with the*
23 *department for another, and may also furnish to the bar the name and address*
24 *of the taxpayer, in instances where the department has reasonable grounds to*
25 *believe the person preparing the return or report prepared it in violation of any*
26 *provision of ORS 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules*
27 *adopted thereunder. The department shall provide a statement of the basis for*
28 *its belief that a violation may have occurred. The bar and any person or board*
29 *described in ORS 9.537 (2), shall use the names, addresses and information*
30 *furnished under this section solely in the enforcement of ORS 9.460 to 9.542*
31 *or 9.705 to 9.757 or the disciplinary rules adopted thereunder. Any information*

1 *disclosed by the department pursuant to this section may be used in any bar*
2 *proceeding relating to the discipline, admission or reinstatement of the person*
3 *preparing the return or report.]*

4 **(1) The Department of Revenue may provide to the Oregon State**
5 **Bar the name and address of any person admitted to practice law in**
6 **this state if the department has reasonable grounds to believe that:**

7 **(a) The person admitted to practice law prepared a return or report**
8 **for any person that is filed with the department and the return or re-**
9 **port was prepared in violation of any provision of ORS 9.460 to 9.542**
10 **or 9.705 to 9.757 or the disciplinary rules adopted thereunder; or**

11 **(b) The person admitted to practice law failed to file a required re-**
12 **turn or report with the department.**

13 **(2) If the department provides the name and address of a person**
14 **admitted to practice law under subsection (1) of this section, the de-**
15 **partment shall also provide to the bar a statement of the basis of the**
16 **department's belief that a violation or a failure to file a required re-**
17 **turn or report may have occurred.**

18 **(3) If the department provides the name and address of a person**
19 **admitted to practice law under subsection (1) of this section with re-**
20 **gard to a return or report prepared for a person other than the person**
21 **admitted to practice law, the department may also provide to the bar**
22 **the name and address of the taxpayer.**

23 **(4) The bar and any person or board described in ORS 9.537 (2) shall**
24 **use the names, addresses and other information provided under this**
25 **section solely in the enforcement of ORS 9.460 to 9.542 or 9.705 to 9.757**
26 **or the disciplinary rules adopted thereunder. Information disclosed**
27 **by the department pursuant to this section may be used in any bar**
28 **proceeding relating to discipline or admission or reinstatement of any**
29 **person to the bar.**

30 **(5) Information disclosed by the department pursuant to this sec-**
31 **tion is confidential and not subject to disclosure by the bar unless the**

1 **state professional responsibility board appointed under ORS 9.532 has**
2 **found probable cause of a rule violation or the matter investigated is**
3 **finally resolved by disciplinary board action, a diversion or agreement**
4 **or an order of the Supreme Court.**

5 **SECTION 3.** ORS 9.675 is amended to read:

6 9.675. (1) An active member of the Oregon State Bar shall certify annually
7 to the bar whether the member maintains any lawyer trust accounts in
8 Oregon. If a member maintains one or more lawyer trust accounts, the
9 member must disclose the financial institution in which each account is held
10 and the account number for each account. The chief executive officer of the
11 bar shall prescribe a form and due date for the certification and disclosures
12 required by this section.

13 (2) If a member does not file the [*certificate*] **certification** and disclosures
14 required by this section [*within 30 days after*] **by** the due date prescribed
15 under subsection (1) of this section, **the chief executive officer shall give**
16 **the member written notice of default and prescribe a reasonable time**
17 **to cure the default.** The chief executive officer shall send [*written notice*
18 *of*] the **notice of default** to the member at the member's electronic mail ad-
19 dress on file with the bar on the date of the notice **of default.** The chief
20 executive officer shall send the notice **of default** by mail to any member who
21 is not required to have an electronic mail address on file with the bar under
22 the rules of procedure. If a member does not file the [*certificate*] **certifica-**
23 **tion** and disclosures required by this section within [*60 days after the date*
24 *of the notice*] **the time allowed to cure the default as stated in the notice**
25 **of default,** the person's membership in the bar is automatically suspended.
26 The chief executive officer shall provide the names of all persons suspended
27 under this section to the judges of the circuit courts, the Court of Appeals
28 and the Oregon Tax Court.

29 (3) A person suspended under this section may be reinstated to member-
30 ship in the bar only if the person pays all required fees and contributions
31 and complies with all rules of procedure and rules of the Supreme Court re-

1 lating to reinstatement.

2 **SECTION 4. This 2019 Act takes effect on the 91st day after the date**
3 **on which the 2019 regular session of the Eightieth Legislative Assem-**
4 **bly adjourns sine die.**

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