

Senate Bill 358

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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 prescribing an effective
3 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 membership fees to be
7 paid by members of the Oregon State Bar shall be established by the Board of Governors of the
8 Oregon State Bar, and each year notice of the proposed fees for the coming year shall be published
9 and distributed to the membership not later than 20 days before the annual meeting of the house
10 of delegates. Any increase in annual membership fees over the amount established for the preceding
11 year must be approved by a majority of delegates of the house of delegates voting thereon at the
12 annual meeting of the house of delegates. The board shall establish the date by which annual mem-
13 bership fees must be paid.

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

19 (3) In establishing annual membership fees, the board shall consider and be guided by the an-
20 ticipated financial needs of the state bar for the year for which the fees are established, time periods
21 of membership and active or inactive status of members. Annual membership fees may include any
22 amount assessed under any plan for professional liability insurance for active members engaged in
23 the private practice of law whose principal offices are in Oregon as provided in ORS 9.080 (2). [*The*
24 *board may not require that a member who has been admitted to practice law in Oregon for 50 years*
25 *or more pay membership fees, assessments or any amount under ORS 9.645, except that the member*
26 *shall be required to pay any amount assessed under any plan for professional liability insurance if the*
27 *member is engaged in the private practice of law and the member's principal office is in Oregon.*]

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

2 9.565. [*The Department of Revenue may furnish to the Oregon State Bar the name and address,*
3 *if known, of any person admitted to practice law in this state who prepares a return or report permitted*
4 *or required to be filed with the department for another, and may also furnish to the bar the name and*
5 *address of the taxpayer, in instances where the department has reasonable grounds to believe the per-*
6 *son preparing the return or report prepared it in violation of any provision of ORS 9.460 to 9.542 or*
7 *9.705 to 9.757 or the disciplinary rules adopted thereunder. The department shall provide a statement*
8 *of the basis for its belief that a violation may have occurred. The bar and any person or board de-*
9 *scribed in ORS 9.537 (2), shall use the names, addresses and information furnished under this section*
10 *solely in the enforcement of ORS 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted*
11 *thereunder. Any information disclosed by the department pursuant to this section may be used in any*
12 *bar proceeding relating to the discipline, admission or reinstatement of the person preparing the return*
13 *or report.*]

14 **(1) The Department of Revenue may provide to the Oregon State Bar the name and ad-**
15 **dress of any person admitted to practice law in this state if the department has reasonable**
16 **grounds to believe that:**

17 **(a) The person admitted to practice law prepared a return or report for any person that**
18 **is filed with the department and the return or report was prepared in violation of any pro-**
19 **vision of ORS 9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted thereunder; or**

20 **(b) The person admitted to practice law failed to file a required return or report with the**
21 **department.**

22 **(2) If the department provides the name and address of a person admitted to practice law**
23 **under subsection (1) of this section, the department shall also provide to the bar a statement**
24 **of the basis of the department's belief that a violation or a failure to file a required return**
25 **or report may have occurred.**

26 **(3) If the department provides the name and address of a person admitted to practice law**
27 **under subsection (1) of this section with regard to a return or report prepared for a person**
28 **other than the person admitted to practice law, the department may also provide to the bar**
29 **the name and address of the taxpayer.**

30 **(4) The bar and any person or board described in ORS 9.537 (2) shall use the names, ad-**
31 **resses and other information provided under this section solely in the enforcement of ORS**
32 **9.460 to 9.542 or 9.705 to 9.757 or the disciplinary rules adopted thereunder. Information**
33 **disclosed by the department pursuant to this section may be used in any bar proceeding re-**
34 **lating to discipline or admission or reinstatement of any person to the bar.**

35 **(5) Information disclosed by the department pursuant to this section is confidential and**
36 **not subject to disclosure by the bar unless the state professional responsibility board ap-**
37 **pointed under ORS 9.532 has found probable cause of a rule violation or the matter investi-**
38 **gated is finally resolved by disciplinary board action, a diversion or agreement or an order**
39 **of the Supreme Court.**

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

41 9.675. (1) An active member of the Oregon State Bar shall certify annually to the bar whether
42 the member maintains any lawyer trust accounts in Oregon. If a member maintains one or more
43 lawyer trust accounts, the member must disclose the financial institution in which each account is
44 held and the account number for each account. The chief executive officer of the bar shall prescribe
45 a form and due date for the certification and disclosures required by this section.

1 (2) If a member does not file the [*certificate*] **certification** and disclosures required by this sec-
2 tion [*within 30 days after*] **by** the due date prescribed under subsection (1) of this section, **the chief**
3 **executive officer shall give the member written notice of default and prescribe a reasonable**
4 **time to cure the default.** The chief executive officer shall send [*written notice of*] the **notice of**
5 default to the member at the member's electronic mail address on file with the bar on the date of
6 the notice **of default.** The chief executive officer shall send the notice **of default** by mail to any
7 member who is not required to have an electronic mail address on file with the bar under the rules
8 of procedure. If a member does not file the [*certificate*] **certification** and disclosures required by this
9 section within [*60 days after the date of the notice*] **the time allowed to cure the default as stated**
10 **in the notice of default,** the person's membership in the bar is automatically suspended. The chief
11 executive officer shall provide the names of all persons suspended under this section to the judges
12 of the circuit courts, the Court of Appeals and the Oregon Tax Court.

13 (3) A person suspended under this section may be reinstated to membership in the bar only if
14 the person pays all required fees and contributions and complies with all rules of procedure and
15 rules of the Supreme Court relating to reinstatement.

16 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
17 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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