

## SENATE AMENDMENTS TO SENATE BILL 358

By COMMITTEE ON JUDICIARY

March 29

1 On page 1 of the printed bill, line 2, after “lawyers;” delete the rest of the line and insert  
2 “creating new provisions; amending ORS 9.080, 9.191, 9.565 and 9.675; and prescribing an  
3 effective”.

4 On page 2, line 17, delete “any” and insert “another”.

5 In line 19, delete the third “or”.

6 Delete lines 20 and 21 and insert:

7 “(b) The person admitted to practice law failed to file a required return, the person has not filed  
8 an appeal contesting the tax with the department by the filing deadline and the department has been  
9 unable to obtain payment of the tax through other methods of collection;

10 “(c) The person admitted to practice law failed to withhold or remit personal income taxes on  
11 behalf of an employee of an entity, the person has been held liable for the failure under ORS 316.207,  
12 the person has not filed an appeal contesting the tax with the department by the filing deadline and  
13 the department has been unable to obtain payment of the tax through other methods of collection;  
14 or

15 “(d) The person admitted to practice law failed to withhold or remit personal income taxes on  
16 behalf of an employee of an entity in which the person has a direct ownership interest, the person  
17 has not filed an appeal contesting the tax with the department by the filing deadline and the de-  
18 partment has been unable to obtain payment of the tax through other methods of collection.”.

19 In line 24, after “violation” delete the rest of the line.

20 In line 25, delete “or report”.

21 Delete lines 26 through 29 and insert:

22 “(3) If the department provides the name and address of a person admitted to practice law under  
23 subsection (1) of this section with regard to a return or report prepared for a person other than the  
24 person admitted to practice law, or with regard to a failure to withhold and remit personal income  
25 taxes withheld, the department may also provide to the bar the name and address of the  
26 taxpayer.”.

27 On page 3, after line 15, insert:

28 “**SECTION 4.** ORS 9.080 is amended to read:

29 “9.080. (1) The state bar shall be governed by the board of governors, except as provided in ORS  
30 9.136 to 9.155. [*The board is charged with the executive functions of the state bar and shall at all times*  
31 *direct its power to the advancement of the science of jurisprudence and the improvement of the admin-*  
32 *istration of justice. It]* **The state bar** has the authority to adopt, alter, amend and repeal bylaws and  
33 to adopt new bylaws containing provisions for the regulation and management of the affairs of the  
34 state bar not inconsistent with law. **The board is charged with the executive functions of the**  
35 **state bar and shall at all times direct its power to serve the public interest by:**

1       **“(a) Regulating the legal profession and improving the quality of legal services;**

2       **“(b) Supporting the judiciary and improving the administration of justice; and**

3       **“(c) Advancing a fair, inclusive and accessible justice system.**

4       “(2)(a)(A) The board has the authority to require all active members of the state bar engaged  
5 in the private practice of law whose principal offices are in Oregon to carry professional liability  
6 insurance and is empowered, either by itself or in conjunction with other bar organizations, to do  
7 whatever is necessary and convenient to implement this provision, including the authority to own,  
8 organize and sponsor any insurance organization authorized under the laws of the State of Oregon  
9 and to establish a lawyer’s professional liability fund. This fund shall pay, on behalf of active mem-  
10 bers of the state bar engaged in the private practice of law whose principal offices are in Oregon,  
11 all sums as may be provided under such plan which any such member shall become legally obligated  
12 to pay as money damages because of any claim made against such member as a result of any act  
13 or omission of such member in rendering or failing to render professional services for others in the  
14 member’s capacity as an attorney or caused by any other person for whose acts or omissions the  
15 member is legally responsible.

16       “(B) The board has the authority to assess each active member of the state bar engaged in the  
17 private practice of law whose principal office is in Oregon for contributions to the professional li-  
18 ability fund and to establish the date by which contributions must be made.

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

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

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

30       “(b) For purposes of paragraph (a) of this subsection, an attorney is not engaged in the private  
31 practice of law if the attorney is a full-time employee of a corporation other than a corporation in-  
32 corporated under ORS chapter 58, the state, an agency or department thereof, a county, city, special  
33 district or any other public or municipal corporation or any instrumentality thereof. However, an  
34 attorney who practices law outside of the attorney’s full-time employment is engaged in the private  
35 practice of law.

36       “(c) For the purposes of paragraph (a) of this subsection, the principal office of an attorney is  
37 considered to be the location where the attorney engages in the private practice of law more than  
38 50 percent of the time engaged in that practice. In the case of an attorney in a branch office outside  
39 Oregon and the main office to which the branch office is connected is in Oregon, the principal office  
40 of the attorney is not considered to be in Oregon unless the attorney engages in the private practice  
41 of law in Oregon more than 50 percent of the time engaged in the private practice of law.

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

1           “(4) Except as provided in this subsection, an employee of the state bar shall not be considered  
2 an ‘employee’ as the term is defined in the public employees’ retirement laws. However, an employee  
3 of the state bar may, at the option of the employee, for the purpose of becoming a member of the  
4 Public Employees Retirement System, be considered an ‘employee’ as the term is defined in the  
5 public employees’ retirement laws. The option, once exercised by written notification directed to the  
6 Public Employees Retirement Board, may not be revoked subsequently, except as may otherwise be  
7 provided by law. Upon receipt of such notification by the Public Employees Retirement Board, an  
8 employee of the state bar who would otherwise, but for the exemption provided in this subsection,  
9 be considered an ‘employee,’ as the term is defined in the public employees’ retirement laws, shall  
10 be so considered. The state bar and its employees shall be exempt from the provisions of the State  
11 Personnel Relations Law. No member of the state bar shall be considered an ‘employee’ as the term  
12 is defined in the public employees’ retirement laws, the unemployment compensation laws and the  
13 State Personnel Relations Law solely by reason of membership in the state bar.

14           “**SECTION 5. Section 6 of this 2019 Act is added to and made a part of ORS 9.005 to 9.757.**

15           “**SECTION 6. Nothing in ORS 9.005 to 9.757 affects the inherent authority of the Supreme**  
16 **Court to adopt rules for the operation of the courts, including any rules relating to the reg-**  
17 **ulation of the practice of law, that are deemed necessary by the court.**

18           “**SECTION 7. Section 6 of this 2019 Act and the amendments to ORS 9.080 by section 4**  
19 **of this 2019 Act become operative on January 1, 2020.”.**

20           In line 16, delete “4” and insert “8”.  
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