

## Chapter 697

### 1961 REPLACEMENT PART

## Collection Agencies; Debt Consolidating Agencies

#### COLLECTION AGENCIES

- 697.010 "Board" and "Commissioner" defined
- 697.020 "Collection agency," "collection agency business," "operator" and "solicitor" defined
- 697.030 Collection agency license required to collect claims
- 697.035 Licensed operator required for management of collection agency business; exceptions; issuance of operator's license without examination
- 697.041 Qualifications of applicant for operator's license
- 697.061 Application for collection agency license; notice to other licensees
- 697.070 Fee, bond and other material to accompany application
- 697.080 Collection agency bond
- 697.100 Form of bond
- 697.111 Examinations for operators' licenses; fee
- 697.120 Fee for license; return of fee and bond if license not issued
- 697.146 Solicitors; solicitors' certificates
- 697.165 License or certificate as personal privilege; procedure on death of licensee
- 697.181 Expiration and renewal of licenses and certificates; effect of delinquencies
- 697.190 Annual statement of collections
- 697.200 False declarations in annual statement prohibited
- 697.210 Failure to file annual statement
- 697.220 Information is confidential
- 697.230 Investigation of suspected or alleged violations
- 697.235 Property right of agency in account assigned for collection
- 697.240 Manner in which records and funds to be kept by collection agency
- 697.250 Reports and payments by agency and customer
- 697.261 Grounds for suspension, revocation or refusal to renew or grant a license or certificate
- 697.270 Denial, suspension or revocation of license; procedure
- 697.290 License and bond prerequisite to action or suit
- 697.401 Collection Agencies Board
- 697.411 Meetings of board
- 697.421 Powers of board
- 697.440 Records of commissioner as evidence
- 697.450 Publication of directory
- 697.460 Disposition of receipts; Collection Agency Account
- 697.470 Remedies not exclusive

#### DEBT CONSOLIDATING AGENCIES

- 697.610 Definitions for ORS 697.610 to 697.785
  - 697.615 "Business of debt consolidating" defined
  - 697.620 Persons engaging in business of debt consolidating required to have licenses
  - 697.625 Qualifications of applicants for licenses
  - 697.630 Educational qualifications of original applicant or its officers and directors
  - 697.635 Application for license
  - 697.640 Fee, bond and other material to accompany applications
  - 697.645 Debt consolidating agency bond
  - 697.650 Amount of bond
  - 697.655 Form of bond
  - 697.660 Examination of new applicants; fee
  - 697.665 Fee for license; return of fee and bond if license not issued
  - 697.670 Issuance of licenses; renewal; form; display
  - 697.675 Grounds for denial, suspension or revocation of license
  - 697.680 Person soliciting business for debt consolidating agency required to have certificate
  - 697.685 Solicitor to present pocket card upon demand
  - 697.690 Solicitor's certificate and pocket card
  - 697.695 Assignability of licenses; procedure on death of licensee
  - 697.700 Procedure on change of name or address of business
  - 697.705 Expiration date of licenses
  - 697.710 Annual statement concerning business
  - 697.715 False declarations in annual statement prohibited
  - 697.720 Consequences for failure to file annual statement
  - 697.725 Statements of applicants and licensees confidential
  - 697.730 Investigation of alleged or suspected violations
  - 697.740 Acts required or prohibited in conduct of licensee's business
  - 697.745 Reports to debtors and payments to creditors required of agency
  - 697.750 Action by debtor on agency bond
  - 697.755 General grounds for suspension or revocation of license
  - 697.760 Hearing required before suspension or revocation of license
  - 697.765 Commissioner's powers in enforcement of ORS 697.610 to 697.785
  - 697.770 Records of commissioner as evidence
  - 697.775 Publication of directory
  - 697.780 Disposition of receipts; Debt Consolidating Agencies Account
  - 697.785 Remedies not exclusive
- PENALTIES**
- 697.990 Penalties
  - 697.992 Jurisdiction of courts

## CROSS REFERENCES

- Administrative procedures and rules of state agencies, Ch. 183
- Certified mail, use of in lieu of registered, 174.150
- Military or naval service, persons relieved from payment of fees, 408 450
- Surety companies, Ch. 747
- Waiver of educational requirement for admission to examination in certain cases, 670 010
- 697.030**
- Real Estate Department's authority over collection agencies, 696 460
- 697.235**
- Assignments generally, Ch 80
- 697.270**
- Appeal bond, deposit of money or security in lieu of, 22 020
- Appeal bond, state not required to furnish, 22 010
- Costs, state not required to advance, 20 140
- 697.401**
- Administrative agencies generally, Ch 182
- Subsistence and mileage allowance for travel, 291 004(9), 292 210 to 292 260
- 697.421**
- Attorney General to supervise all legal proceedings for state agencies, 180 220, 180.230
- Proceedings, liabilities and records under law prior to 1959 amendments, 1959 c 525 §§34, 40, 41
- State Civil Service Law, Ch 240
- 697.460**
- Expenditures without allotment prohibited in certain cases, 291 238
- Payment of part of salary of Real Estate Commissioner from Collection Agency Account, 696.400
- 697.615**
- Interest and usury, Ch. 82
- Wage claims, priority, 652 570
- 697.675**
- Hearing before action by commissioner, 697.760
- 697.760**
- Forfeiture of license for failure to file renewal, 697 670
- 697.765**
- State Civil Service Law, Ch 240
- 697.990**
- Use of false pretenses in collecting debts, 165 265

**COLLECTION AGENCIES**

**697.010 "Board" and "Commissioner" defined.** As used in ORS 697.010 to 697.470, unless the context requires otherwise:

(1) "Board" means the Collection Agencies Board.

(2) "Commissioner" means the Real Estate Commissioner.

[Amended by 1959 c 525 §1]

**697.020 "Collection agency," "collection agency business," "operator" and "solicitor" defined.** (1) Except as provided in subsection (4) of this section, as used in ORS 697.010 to 697.470, the term "collection agency business" means the business of engaging directly or indirectly and as a primary or secondary object, business or pursuit in the solicitation of claims for collections or in the collection of claims owed or due or asserted to be owed or due to another.

(2) Any house agency, firm, person, corporation or voluntary association using any name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency business within the meaning of ORS 697.010 to 697.470.

(3) Any person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under ORS 697.010 to 697.470, any system of collection letters, demand forms or other printed matter where the name of any person, other than a creditor, shall appear in such manner as to indicate that a request or demand is being made by another person, other than the creditor, for the payment of any sum due, or asserted to be due, is considered to be in the collection agency business within the meaning of ORS 697.010 to 697.470.

(4) As used in ORS 697.010 to 697.470, the term "collection agency business" does not include attorneys at law who do not specialize in collections, licensed real estate brokers residing in this state when engaged in the regular practice of their respective professions, nor banks, trust companies, building and loan associations, savings and loan associations, abstract companies doing an escrow business, individuals or firms who purchase or take accounts receivable for collateral purposes, individuals regularly employed on a regular wage or salary in the

capacity of credit men or in other similar capacity upon the staff of employes of only one person, one firm or one corporation not engaged in the business of a collection agency, express companies and telegraph companies doing business subject to public supervision and regulation, any public officer or any person acting under an order of court.

(5) As used in ORS 697.010 to 697.470, "collection agency" means any person licensed and authorized to engage in the collection agency business.

(6) As used in ORS 697.010 to 697.470, "operator" means a person having managerial control of a collection agency.

(7) As used in ORS 697.010 to 697.470, "solicitor" means a person whose primary function as an employe of a collection agency is the solicitation of accounts.

[Amended by 1953 c 519 §2, 1959 c 525 §2]

**697.030 Collection agency license required to collect claims.** No person other than a collection agency licensed and authorized under ORS 697.010 to 697.470 shall:

(1) Conduct within this state a collection agency business.

(2) Within this state collect claims for others.

(3) Solicit the right to collect or receive payment of any claim for another.

(4) Advertise or solicit either in print, by letter, in person or otherwise, the right to collect or receive payment of any claim for another.

(5) Seek to make collection or obtain payment of any claim on behalf of another.

[Amended by 1959 c 525 §3]

**697.035 Licensed operator required for management of collection agency business; exceptions; issuance of operator's license without examination.** (1) Notwithstanding any other provision of ORS 697.010 to 697.470, no licensee shall engage in the collection agency business unless and until the collection agency is under the management of a licensed operator. However, the commissioner may waive this requirement for a period not to exceed 90 days upon the death or disability of an operator, or for other good cause.

(2) Any person who holds a collection agency license on August 5, 1959, or any person having managerial control of a collection agency who has operated or directly managed a collection agency for a period of at least one year shall be conclusively pre-

sumed to be a qualified operator, and upon application for a license and tender of the annual license fee, the commissioner shall issue an operator's license to him without the necessity of a qualifying examination. The annual operator's license shall be renewable on or before July 1 of each year and the fee therefor shall be \$2.

[1959 c 525 §10]

697.040 [Repealed by 1959 c 525 §36]

**697.041 Qualifications of applicant for operator's license.** (1) Except as provided in ORS 697.035, to qualify for an operator's license the applicant shall:

(a) Have been a resident of this state continuously for at least one year prior to the time of application; and

(b) Be a high school graduate, or have the equivalent education of a high school graduate; and

(c) Be of good moral character; and

(d) Not have been convicted of violating this chapter, nor have any unsettled complaints filed under ORS 697.230 against him; and

(e) Have passed an examination as provided in ORS 697.010 to 697.470. A grade of 80 percent is passing on such examination.

(2) The board may waive or modify the requirements specified in paragraph (d) of subsection (1) of this section.

[1959 c 525 §11]

697.050 [Repealed by 1959 c 525 §36]

697.060 [Repealed by 1959 c 525 §36]

**697.061 Application for collection agency license; notice to other licensees.** (1) Every application for a collection agency license, or for a renewal thereof, shall be made upon blanks furnished by the commissioner in such form as the board shall require and shall contain the following information:

(a) The full name and proposed business name of the applicant.

(b) The address of the applicant's principal place of business and branch offices.

(c) The names and addresses of the applicant and those associated with him. If the applicant is a corporation the application shall contain the names of the officers of the corporation.

(d) The names and residential addresses of the applicant's operators.

(e) The names and addresses of the applicant's solicitors.

(f) Such additional information which

the board, by rule or regulation, shall require.

(2) Within 10 days after the filing of an application the commissioner shall notify all collection agency licensees of the receipt thereof. This notification requirement may be satisfied by notifying a member of the board and the Secretary of the Oregon Collectors' Association. Each notice shall contain the name of the applicant and if a corporation, the names of all its stockholders, the applicant's prospective business location and such further information as the board by rule or regulation shall require.

[1959 c 525 §5]

**697.070 Fee, bond and other material to accompany application.** The application shall be accompanied by:

(1) If an original application, an application fee of \$20.

(2) The annual license fee for a collection agency license, which is fixed at \$100 for the principal place of business, and \$100 for each branch office.

(3) Complete forms of all contracts and assignments designed for execution by persons placing any claim with the applicant for collection.

(4) A bond running to the State of Oregon with a surety or sureties to the satisfaction of the commissioner, and conditioned that the licensee shall, within 30 days after the close of each calendar or fiscal month, report and pay to his customers the net proceeds due and payable of all collections made during the calendar or fiscal month.

[Amended by 1959 c 525 §6, 1961 c 686 §1]

**697.080 Collection agency bond.** The bond provided for in subsection (4) of ORS 697.070 shall be in the sum of \$3,000 for one business location of the applicant and \$1,000 for each additional location and executed by the applicant, as principal, and by a corporation, which is licensed by the State Insurance Commissioner to transact the business of fidelity and surety insurance, as surety; or by two or more persons owning unencumbered real estate within the State of Oregon, the value of which in the aggregate is at least twice the amount of the penalty of the bond, as sureties, in which case the applicant must furnish to the commissioner a legal description of the property owned by each of the sureties together with a certificate from the county assessor showing the

assessed value thereof. If any such surety shall, during the life of such bond, sell, mortgage or otherwise dispose of any of the property so listed, he shall immediately notify the commissioner, and thereupon the commissioner shall give notice to the licensee by registered or certified letter, return receipt demanded, that his bond will be canceled and his license revoked unless a new bond with proper sureties is filed within 30 days thereafter. Any licensee may, at any time, file with the commissioner a new bond. Any surety may file with the commissioner notice of his withdrawal as surety on the bond of any licensee. Upon filing of such new bond, or upon the revocation of the collection agency license, or upon expiration of 60 days after the filing of notice of withdrawal, as surety, by the surety, the liability of the former surety for all future acts of the licensee shall terminate. The commissioner shall forthwith cancel the bond given by any surety company upon being advised its license to transact the business of fidelity and surety insurance has been revoked by the State Insurance Commissioner. Upon the filing with the commissioner of notice by a surety of his withdrawal as the surety on the bond of any licensee, or upon the cancellation by the commissioner of the bond of any surety company as provided in this section, the commissioner shall forthwith give notice to the licensee of such withdrawal or cancellation, which notice shall be by registered or certified mail with request for a return receipt and addressed to the licensee at his main office, as shown by the records of the commissioner. At the expiration of 30 days from the date of mailing the notice, the license of such licensee shall be forthwith terminated, unless the licensee has filed a new bond with a surety, or sureties, satisfactory to the commissioner. All bonds given under the provisions of ORS 697.010 to 697.470 shall be filed and held in the office of the commissioner.

[Amended by 1959 c.525 §7]

**697.090** [Repealed by 1959 c 525 §36]

**697.100 Form of bond.** The bond required by ORS 697.070 shall be in the form substantially as follows:

Know All Men by These Presents that we, —, as principal, and —, as suret—, are held and firmly bound unto the State of Oregon, in the penal sum of —, (\$—),

lawful money of the United States, for the payment of which well and truly to be made we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas, the above bounden principal has applied to the Real Estate Commissioner of the State of Oregon for a collection agency license under the provisions of ORS 697.010 to 697.470, and is required by the provisions of that law to furnish a bond conditioned as herein set forth.

Now, therefore, if the said — shall, within 30 days after the close of each fiscal or calendar month, report and pay to customers the net proceeds due and payable of all collections made during said calendar or fiscal month, and shall strictly, honestly and faithfully comply with the provisions of ORS 697.010 to 697.470, and all amendments thereof and supplemental thereto, now or hereafter enacted, then this obligation shall be void, otherwise to remain in full force and effect.

This bond shall become effective on the — day of —, 19—. The suret— may be relieved of future liability hereunder by giving 60 days' written notice to the principal and to the Real Estate Commissioner of the State of Oregon.

This bond shall be one continuing obligation and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty hereof.

In Witness Whereof we have hereunto set our hands and seals at — in the State of Oregon, this — day of —, 19—.

\_\_\_\_\_(SEAL)  
Principal  
\_\_\_\_\_(SEAL)  
\_\_\_\_\_(SEAL)  
Suret—

[Amended by 1959 c.525 §8]

**697.110** [Repealed by 1959 c 525 §36]

**697.111 Examinations for operators' licenses; fee.** Examinations for operators' licenses shall be conducted by the board and held in March and September of each year on dates designated by the board. The board shall designate such dates at least 30 days prior to the date on which the examination is to be given. Applications for examination

shall be filed at least 15 days prior to the examination date and shall be accompanied by an application fee of \$10. The examination may be written or oral or a combination of both and shall be practical in nature. The examination may include questions on:

(1) Bookkeeping, credit adjusting, business law, collection procedure, business ethics, agency, debtor and creditor relationships, trust funds, fiduciary relationships and the provisions of ORS 697.010 to 697.470; and

(2) Such further subject matter as the board, by rule or regulation, may specify. [1959 c 525 §12, 1961 c 686 §2]

**697.120 Fee for license; return of fee and bond if license not issued.** The fee for all licenses issued shall, at all periods of the year, be the same as prescribed in ORS 697.010 to 697.470. No other license or fee shall be required of such licensee by any city, county, town or other political subdivision thereof. If the commissioner does not issue the license applied for, the fee and bond shall be returned to the applicant. Each collection agency must procure a license and pay a license fee of \$100 for each of its offices in the State of Oregon.

[Amended by 1953 c 520 §5, 1961 c.686 §3]

**697.130** [Amended by 1953 c 520 §5, repealed by 1959 c.525 §36]

**697.140** [Repealed by 1959 c 525 §36]

**697.145** [Amended by 1953 c 520 §5; repealed by 1959 c.525 §36]

**697.146 Solicitors; solicitors' certificates.** Except for a licensed operator, no person shall act as a solicitor until he has received a certificate from the commissioner permitting such activity. The commissioner shall issue a certificate to a solicitor upon application therefor by a collection agency and shall be conditioned upon exclusive employment of the solicitor with such agency. All certificates shall be issued upon conditions which the board, by rule or regulation, may specify. The certificate shall be of pocket size and executed in duplicate and one copy shall be retained in an office of such collection agency and the other shall be carried by the solicitor at all times during the course of his employment. The solicitor shall show his certificate on the request of any person from whom he is soliciting business for a collection agency. The certificate shall contain the date of its issuance, the

name of the solicitor and the collection agency for which he solicits business, and such other information as the board, by rule or regulation, may require. The application and annual renewal fee for a certificate shall be \$5. If the employment of a solicitor is terminated, the collection agency shall notify the commissioner within 10 days after the date of such termination and upon receipt of such notification the commissioner shall cancel the solicitor's certificate. All cancellations shall be matters of public record.

[1959 c 525 §13; 1961 c 686 §4]

**697.150** [Amended by 1953 c 520 §5; repealed by 1959 c 525 §36]

**697.160** [Amended by 1953 c 520 §5; repealed by 1959 c 525 §36]

**697.165 License or certificate as personal privilege; procedure on death of licensee.** (1) Except as provided in subsection (2) of this section, any certificate or license granted under ORS 697.010 to 697.470 shall be a personal privilege and shall not be assignable.

(2) Upon the death of any collection agency licensee, the board, or the commissioner under rule or regulation of the board, shall have the right to transfer the license of the decedent to the executor or administrator of his estate for the period of the unexpired term of the license and thereupon the court having jurisdiction of the probate of the estate of said decedent may authorize such executor or administrator to continue the collection agency business of the decedent pursuant to the provisions of ORS 116.170 to 116.180, and upon such other terms and conditions as the court may prescribe.

[Amended by 1959 c 525 §16]

**697.170** [Amended by 1957 c 469 §1, repealed by 1959 c 525 §36]

**697.180** [Repealed by 1959 c 525 §36]

**697.181 Expiration and renewal of licenses and certificates; effect of delinquencies.** (1) All licenses and certificates required by ORS 697.010 to 697.470, including those issued before August 5, 1959, shall expire on June 30 of each year and shall be renewed as of July 1 following upon payment of required annual fees.

(2) If a licensee or certificate holder under ORS 697.010 to 697.470 is delinquent

for a period of 15 days in applying for the renewal of a license or certificate the commissioner shall suspend the same and so notify the licensee or certificate holder by certified mail or by personal service. The notice shall state that the license or certificate shall be revoked if application for renewal is not made within 15 days from the date on which such notice was mailed or personally served. When a licensee or certificate holder has been delinquent in renewing his license or certificate, the commissioner shall charge an additional fee of \$5 for the renewal of such license or certificate. The board on its own motion may waive or, by rule or regulation, authorize the commissioner to waive the additional fee for good cause shown.

[1959 c 525 §14]

**697.190 Annual statement of collections.**

Each collection agency licensee shall, not later than January 31 of each calendar year, file with the commissioner a duly verified annual statement for the preceding calendar year, showing the respective amounts of all customers' money collected by the licensee during the preceding calendar year, which will not previously be remitted to the customers entitled thereto or properly accounted for, and showing also the amounts of money which the licensee has on deposit in any bank or in the licensee's possession for the purpose of liquidating any and all amounts due to customers. Such annual statement shall be made substantially in the following form:

**ANNUAL STATEMENT TO REAL ESTATE COMMISSIONER**

Pursuant to ORS 697.010 to 697.470, the undersigned, \_\_\_\_\_, duly licensed under ORS 697.010 to 697.470 to conduct a collection agency business hereby does declare that the amount of money collected during the preceding calendar year by the undersigned, as a licensee under ORS 697.010 to 697.470, which has not been remitted to any customer or properly accounted for is \$.....; and that the amount on deposit with all banks for the purpose of liquidating all amounts due to customers is \$.....

The attached schedule contains a true statement of the name and address of each customer of the undersigned to whom there was due or owing at the end of the preceding calendar year on account of collections made during the preceding calendar year the aggregate sum of \$5 or more.

IN WITNESS WHEREOF, the undersigned has executed this statement on this \_\_\_\_\_ day of \_\_\_\_\_, 19.....

(name of licensee).....

(signature) .....

(capacity) .....

**VERIFICATION**

STATE OF OREGON }  
County of .....} ss.

I, the undersigned, being first duly sworn, do on oath depose and say: That I executed the within annual statement as the licensee therein named or on behalf of the licensee therein named as the operator, director or officer of the licensee therein named, as indicated therein; that I have read the statement and know the contents thereof; and that the statement is true.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19.....

Notary Public for Oregon

My commission expires:.....

[Amended by 1959 c.525 §17]

**697.200 False declarations in annual statement prohibited.** The wilful making of any false declaration in the annual statement shall constitute a violation of this section and shall constitute sufficient grounds for revocation of the license of the licensee after hearing and determination as provided in ORS 697.010 to 697.470.

**697.210 Failure to file annual statement.** If the annual statement is not filed as required under ORS 697.190, the failure to file it shall constitute grounds for the immediate suspension of the collection agency license of the licensee so failing to file the statement and the commissioner shall notify the licensee by registered or certified mail that the license of the licensee will be suspended upon the expiration of the period of 15 days after the date on which such notice was mailed unless the licensee complies with the provisions of ORS 697.190. However, for good cause shown and upon satisfactory proof furnished by the licensee that the failure to file the statement was due to a condition not within the control, or was due to excusable neglect, of the licensee, the board or the commissioner under rule or regulation of the board may permit the filing of the statement after the time limited

and excuse the failure to file the statement within the time limited. If the statement required by ORS 697.190 is not filed as required in this section or ORS 697.190 the board or the commissioner under rule or regulation of the board shall revoke the license.

[Amended by 1959 c 525 §18]

**697.220 Information is confidential.** Except as otherwise provided in ORS 697.010 to 697.470, any information, in whatever form, required by the terms of ORS 697.010 to 697.470 to be filed shall be confidential and shall not become a public record, but it may be introduced in evidence in any suit, action or proceeding in any court or in any proceeding involving the granting or revocation of the license of any licensee.

[Amended by 1959 c 525 §19]

**697.230 Investigation of suspected or alleged violations.** The commissioner or the board may, upon their own motion, and shall, upon the sworn complaint in writing of any customer of a collection agency, investigate the actions of any licensee or certificate holder claimed to have violated ORS 697.010 to 697.470, and for that purpose the commissioner or the board shall have free access to the offices and places of business, and, if the complaint involves customer accounts, to all pertinent books, accounts, records, papers, files, safes and vaults of such licensee or certificate holder. No complaint shall be held to be sufficient basis for the denial, revocation or suspension of a license or certificate unless it specifies in detail the charges made against the licensee or certificate holder. If the complaint involves the owing of money, or any other thing of value, by a licensee to the complainant, when the licensee raises the issue of an offset or counterclaim, the board may require the complainant to submit all records and data in his possession pertaining to such offset or counterclaim. The commissioner or the board shall take lack of wilfulness or gross negligence or any other mitigating circumstances into consideration in disposing of the complaint filed under this section.

[Amended by 1959 c 525 §20]

**697.235 Property right of agency in account assigned for collection.** A collection agency shall have a property right in any account assigned to it for collection. Such property right is a matter which the board

shall consider in any determination under ORS 697.230

[1959 c 525 §22]

**697.240 Manner in which records and funds to be kept by collection agency.** (1) Every collection agency shall keep a record of all sums collected by it, and of all disbursements made by it, and shall maintain and keep all such records and all customers' funds within this state. Collection agencies shall maintain accounting records of collections for and payments to customers for a period of six years from the date of the last entry thereon. Collection agencies shall keep other records for a period of two years from the date of the last entry thereon. No collection agency, or any employe thereof, shall intentionally make any false entry in any such collection agency record or intentionally mutilate, destroy or otherwise dispose of any such record within the time limits provided in this section. Such records shall at all reasonable times be open for inspection by the commissioner or his authorized agent.

(2) No licensee or certificate holder under ORS 697.010 to 697.470 shall commingle the money of collection agency customers with other moneys, but shall maintain a separate trust account for customers' funds.

[Amended by 1957 c 429 §2, 1959 c 525 §23]

**697.250 Reports and payments by agency and customer.** Every collection agency shall, within 30 days after the close of each calendar or fiscal month, report and pay to its customers the net proceeds due and payable of all collections made during that calendar or fiscal month. When the net proceeds are less than \$5 at the end of any calendar or fiscal month, payments may be deferred for a period not to exceed three months. Every customer of a collection agency shall, within 30 days after the close of each calendar month, report and pay to his collection agency all sums owing to it for payments received by the customer during that calendar month on collection items in the hands of the collection agency.

[Amended by 1959 c 525 §24]

**697.260** [Repealed by 1959 c 525 §36]

**697.261 Grounds for suspension, revocation or refusal to renew or grant a license or certificate.** The board, or the commissioner under rule or regulation of the board, may suspend, revoke or refuse to renew or grant any license or certificate issued or applied for under ORS 697.010 to 697.470 if

the licensee, certificate holder or applicant has been disbarred from the practice of law or been convicted of fraud, embezzlement, obtaining money under false pretenses, moral turpitude, extortion, conspiracy to defraud, violating ORS 697.010 to 697.470 or violating any rule and regulation of the board. The board, or the commissioner under rule or regulation of the board, may take any action permitted in this section when any partner, associate or major stockholder of a collection agency has ever been convicted of such acts.

[1959 c 525 §15]

**697.270 Denial, suspension or revocation of license; procedure.** The board shall, before denying any application for a license or certificate, and before suspending or revoking any license or certificate, set the matter down for hearing and proceed in compliance with ORS 183.310 to 183.510. The board may issue subpoenas and bring before it any person, book or writing in this state, swear witnesses and take the testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in courts of record of this state in civil cases.

[Amended by 1959 c 525 §25]

**697.280** [Repealed by 1959 c 525 §36]

**697.290 License and bond prerequisite to action or suit.** No collection agency is entitled to maintain any suit or action involving the collection of money on behalf of its customers in any of the courts of this state without alleging and proving that it is duly licensed and has procured a bond, as provided in ORS 697.010 to 697.470.

[Amended by 1959 c 525 §26]

**697.300 to 697.390** [Reserved for expansion]

**697.400** [Repealed by 1959 c 525 §36]

**697.401 Collection Agencies Board.** (1) There hereby is established a Collection Agencies Board consisting of the commissioner and five appointive members. The commissioner shall designate a member of his staff to act as secretary of the board, who shall keep minutes of all meetings of the board, keep all records required under ORS 697.010 to 697.470 and perform such further duties as the commissioner or the board may specify.

(2) The appointed members of the Collection Agencies Advisory Board holding office on August 5, 1959, shall be members of

the board for the period which they would have served as members of the Collection Agencies Advisory Board but for chapter 525, Oregon Laws 1959. On August 5, 1959, the Governor shall appoint one additional member to the board whose term of office shall expire simultaneously with the terms of the most recent appointees to the Collection Agencies Advisory Board. The Governor shall appoint the first two members of the board, other than the additional member referred to in this subsection, for a term of one year. Thereafter all members shall be appointed for terms of two years. No member of the board shall serve for more than two consecutive terms.

(3) In making appointments the Governor may base appointments upon area, giving consideration to the number of licensed collection agencies and operators residing in each presently constituted congressional district. In making appointments the Governor may also give consideration to the recommendations of the Oregon Collectors' Association. Except for the first five members of the board appointed under this section, and except as provided in this subsection, no person shall be qualified to act as a member of the board unless he is, and continues to be, a licensed operator. Any person qualified to serve as a member of the Collection Agencies Advisory Board prior to August 5, 1959, shall qualify for the first five appointments to the board.

(4) The Governor may remove any member for cause. Any vacancy on the board shall be filled by the Governor for the unexpired term.

(5) Members shall be reimbursed for actual expenditures incurred in attending board meetings.

[1959 c 525 §29]

**697.410** [Repealed by 1959 c 525 §36]

**697.411 Meetings of board.** (1) Except when the chairman or vice chairman of the board declares a recess of a board meeting until a later date in the month, regular meetings of the board shall be held on the first Monday of April and October of each year. All meetings shall be held at Salem, Oregon unless the board, by rule or regulation, provides for the holding of meetings elsewhere within the state. Special meetings may be called by the chairman or vice chairman or in the manner which the board, by rule or regulation, may provide. The commissioner may call a special meeting for the initial

organization of the board. A majority of the board shall constitute a quorum for the transaction of any business under ORS 697.010 to 697.470, but any board action under ORS 697.041, 697.111, 697.146, 697.165, 697.230 and 697.270 shall require the affirmative vote of four appointive members of the board.

(2) At their first meeting the board shall elect one member as chairman and one as vice chairman. The vice chairman shall serve as chairman in the absence or incapacity of the chairman. The first chairman and vice chairman shall hold office until July 1 following their election. Thereafter the chairman and vice chairman shall be elected for 12-month periods.

[1959 c.525 §30]

697.420 [Repealed by 1959 c 525 §36]

**697.421 Powers of board.** In so far as consistent with other provisions of ORS 697.010 to 697.470, the board shall have the power to:

(1) Provide the manner and methods for conducting examinations.

(2) Institute legal and equity proceedings necessary for the enforcement of ORS 697.010 to 697.470.

(3) Establish codes of ethical conduct for licensees and certificate holders.

(4) Employ necessary personnel and fix their rates of compensation.

(5) Call upon appropriate law enforcement officers for prosecution of violations of ORS 697.010 to 697.470.

(6) Delegate administrative functions to the commissioner and provide for further administrative functions when necessary.

(7) Adopt any and all rules and regulations necessary to carry out ORS 697.010 to 697.470.

(8) Make all necessary expenditures to carry out ORS 697.010 to 697.470.

(9) Direct the commissioner to publish an annual directory containing such information as the board may specify.

[1959 c 525 §31]

697.430 [Amended by 1953 c 518 §2, 1957 c 469 §3; repealed by 1959 c 525 §36]

**697.440 Records of commissioner as evidence.** Copies of all records and papers in the office of the commissioner, certified by him to be true copies, shall be received in evidence in all cases equally and with like effect as the originals.

[Amended by 1959 c 525 §32]

**697.450 Publication of directory.** On or about September 1 in each year, the commissioner shall publish a directory containing a list of all the licensed collection agencies in Oregon and a copy of ORS 697.010 to 697.470 and such other material as the board shall prescribe, and without charge therefor mail one copy to each licensed collection agency, and one to each person in the state upon request.

[Amended by 1959 c 525 §33]

**697.460 Disposition of receipts; Collection Agency Account.** All fees, fines and penalties provided for in ORS 697.010 to 697.470 shall be paid to the commissioner, and he shall transmit them to the State Treasurer at the end of every calendar month. The State Treasurer shall place such fees, fines and penalties in an account in the General Fund to be known as the Collection Agency Account. Except as provided in this section, all funds in that account are hereby continuously appropriated for the payment of the expenses and salaries incurred under the provisions of ORS 697.010 to 697.470, including the payment of such part of the salary of the commissioner as may be fixed by law to be paid from funds received under ORS 697.010 to 697.470. Any funds in excess of \$5,000 in the Collection Agency Account as of April 30 of each year shall be transferred to the General Fund to be available for the payment of general governmental expenses.

[Amended by 1959 c 525 §34]

**697.470 Remedies not exclusive.** The remedies provided for in ORS 697.010 to 697.470 are in addition to and not exclusive of any other remedies provided by law.

697.480 [Renumbered as part of 697 992]

697.490 to 697.600 [Reserved for expansion]

#### DEBT CONSOLIDATING AGENCIES

**697.610 Definitions for ORS 697.610 to 697.785.** As used in ORS 697.610 to 697.785, unless the context requires otherwise:

(1) "Commissioner" means the Real Estate Commissioner.

(2) "Debt consolidating agency" means any person engaging in the business of debt consolidating.

[1959 c 635 §1]

**697.615 "Business of debt consolidating" defined.** (1) Any person who directly or indirectly and as a primary or secondary business or pursuit solicits, offers to take or

takes an assignment of the wages, salary, income or credits of a debtor or who offers to take, takes or solicits any real or personal property from a debtor for the purpose of paying such wages, salary, income, credits or property, or the proceeds from the sale thereof, to the creditors of such debtor is engaging in "the business of debt consolidating," as the term is used in ORS 697.610 to 697.785.

(2) The term "debt consolidating agency" does not include attorneys at law who do not specialize in the business of debt consolidating, licensed real estate brokers residing in this state when engaged in the regular practice of their respective professions, nor banks, trust companies, building and loan associations, savings and loan associations, consumer finance companies, industrial loan companies, title insurance companies, abstract companies doing an escrow business, organizations dealing with debts owing from commercial enterprises, individuals regularly employed on a regular wage or salary in the capacity of credit men or in other similar capacity upon the staff of employes of only one person, one firm or one corporation not engaged in the business of debt consolidation, express companies and telegraph companies doing business subject to public supervision and regulation, any public officer or any person acting under an order of court.

[1959 c 635 §2]

**697.620 Persons engaging in business of debt consolidating required to have licenses.**

(1) Without first having applied for and obtained a license under ORS 697.610 to 697.785, no person shall engage in the business of debt consolidating within this state.

(2) Nothing contained in this section shall be construed to require the employes of a debt consolidating agency licensed under ORS 697.610 to 697.785 to procure a debt consolidating agency license.

[1959 c 635 §3]

**697.625 Qualifications of applicants for licenses.** Debt consolidating agency licenses shall be granted only to persons who are over 21 years of age and who are trustworthy and competent to transact the business of a debt consolidating agency and to corporations and associations authorized to do business in this state.

[1959 c.635 §4]

**697.630 Educational qualifications of original applicant or its officers and directors.** (1) An original applicant for a license under ORS 697.610 to 697.785 shall, in addition to meeting the requirements of ORS 697.625, be at least a graduate of a four-year high school or shall prove satisfactorily to the commissioner that he is possessed of the equivalent of a four-year high school education in point of intellectual competency and achievement.

(2) If the original applicant be a corporation or association, its officers and directors must meet the qualifications specified in subsection (1) of this section.

[1959 c 635 §5]

**697.635 Application for license.** Every applicant for a debt consolidating agency license, or the renewal thereof, shall apply therefor in writing, under oath, upon blanks furnished by the commissioner, and shall state his full name and residence address and the business name and address of his agency. If the applicant be a partnership, the full name and residence address of each partner must also be given. If the applicant be a corporation or association, the full name and residence address of each of its officers and directors must also be given.

[1959 c 635 §6]

**697.640 Fee, bond and other material to accompany applications.** The application for a debt consolidating agency license shall be accompanied by:

(1) An annual license fee as provided in ORS 697.665.

(2) Complete forms of all contracts and assignments designed for execution by debtors making any assignments to or placing any property with the applicant for the purpose of paying the creditors of such debtors.

(3) Complete forms of all contracts and releases designed for execution by creditors to whom payments are made by the applicant.

(4) A list containing the names and residence addresses of all solicitors for the applicant.

(5) A bond running to the State of Oregon with a surety or sureties to the satisfaction of the commissioner, and conditioned that the licensee shall, within 30 days after the close of each calendar month, make a report to the debtor showing all payments made by the agency to his creditors and pay to such creditors the net proceeds of

all wages, salaries, income, credits or property of the debtor received during the calendar month.

[1959 c 635 §7]

**697.645 Debt consolidating agency bond.**

The bond provided for in subsection (5) of ORS 697.640 shall be executed by the applicant, as principal, and by a corporation, which is licensed by the State Insurance Commissioner to transact the business of fidelity and surety insurance, as surety or by two or more persons owning unencumbered real estate within this state, the value of which in the aggregate is at least twice the amount of the penalty of the bond, as sureties, in which case the applicant must furnish to the commissioner a legal description of the property owned by each of the sureties together with a certificate from the county assessor showing the assessed value thereof. If any such surety shall, during the life of such bond, sell, mortgage or otherwise dispose of any of the property so listed, he shall immediately notify the commissioner, and thereupon the commissioner shall give notice to the licensee by registered letter, return receipt demanded, that his bond will be canceled and his license revoked unless a new bond with proper sureties is filed within 30 days thereafter. Any licensee may, at any time, file with the commissioner a new bond. Any surety may file with the commissioner notice of his withdrawal as surety on the bond of any licensee. Upon filing of such new bond, upon the revocation of the debt consolidating agency license or upon expiration of 30 days after the filing of notice of withdrawal, as surety, by the surety, the liability of the former surety for all future acts of the licensee shall terminate. The commissioner shall cancel the bond given by any surety company upon being advised its license to transact the business of fidelity and surety insurance has been revoked by the State Insurance Commissioner. Upon the filing with the commissioner of notice by a surety of his withdrawal as the surety on the bond of any licensee, or upon the cancellation by the commissioner of the bond of any surety company as provided in this section, the commissioner shall give notice to the licensee of such withdrawal or cancellation, which notice shall be by registered mail with request for a return receipt and addressed to the licensee at his main office, as shown by the records of the commissioner. At the expira-

tion of 30 days from the date of mailing the notice, the license of such licensee shall be terminated, unless the licensee has filed a new bond with a surety, or sureties, satisfactory to the commissioner. All bonds given under the provisions of ORS 697.610 to 697.785 shall be filed and held in the office of the commissioner.

[1959 c 635 §8]

**697.650 Amount of bond.** The bond of each licensee shall be for \$10,000. However, when an applicant or licensee operates more than one office, under one ownership, one bond shall cover all such offices and the amount of the bond shall be equal to the sum of \$10,000 for the first office and \$1,000 for each additional office. When an applicant or licensee operates more than one office, the commissioner shall determine the number of additional offices and set the amount of the bond required.

[1959 c 635 §9]

**697.655 Form of bond.** The bond required by ORS 697.640 shall be in the form substantially as follows:

Know All Men by These Presents that we, \_\_\_\_\_, as principal, and \_\_\_\_\_, as suret\_\_\_\_\_, are held and firmly bound unto the State of Oregon, in the penal sum of \_\_\_\_\_, (\$\_\_\_\_\_), lawful money of the United States, for the payment of which well and truly to be made we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas, the above bounden principal has applied to the Real Estate Commissioner of the State of Oregon for a debt consolidating agency license under the provisions of ORS 697.610 to 697.785, and is required by the provisions of that law to furnish a bond conditioned as herein set forth.

Now, therefore, if the said \_\_\_\_\_ shall, within 30 days after the close of each calendar month make a report to each debtor showing all payments made to the creditors of such debtor and pay to such creditors the net proceeds of all wages, salaries, income, credits or property of the debtor received during said calendar month, and shall strictly, honestly and faithfully comply with the provisions of ORS 697.610 to 697.785, and all amendments thereof and supplemental thereto, now or hereafter enacted, then this obligation shall be void, otherwise to remain in full force and effect.

This bond shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The suret\_\_\_\_\_ may be relieved of future liability hereunder by giving 30 days' written notice to the principal and to the Real Estate Commissioner of the State of Oregon.

This bond shall be one continuing obligation and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty hereof.

In Witness Whereof we have hereunto set our hands and seals at \_\_\_\_\_ in the State of Oregon, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_(SEAL)

Principal

\_\_\_\_\_(SEAL)

\_\_\_\_\_(SEAL)

Suret\_\_\_\_\_

[1959 c 635 §10]

**697.660 Examination of new applicants; fee.** Each applicant not previously licensed under ORS 697.610 to 697.785 but making an original application for a license under ORS 697.610 to 697.785 shall, before being licensed, in addition to complying with the other provisions of ORS 697.610 to 697.785, comply with the provisions of this section. Each such original applicant shall pay, in addition to all other fees payable by licensees under ORS 697.610 to 697.785, an examination fee of \$20. The commissioner shall examine all such original applicants for licenses and issue licenses to those found qualified to be licensed as provided in ORS 697.610 to 697.785. The examinations of such original applicants may be oral or written, or partly oral and partly written, and shall be practical in nature and sufficiently thorough to ascertain their fitness. Questions on bookkeeping, credit adjusting, business ethics, agency, contracts, debtor and creditor relationships, trust funds and the provisions of ORS 697.610 to 697.785 may be included in the examination.

[1959 c 635 §11]

**697.665 Fee for license; return of fee and bond if license not issued.** (1) The fee for all licenses issued shall, at all periods of the year, be the same as prescribed in ORS 697.610 to 697.785. No other license or fee shall be required of such licensee by any city, county, town or other political subdivision thereof. If the commissioner does not issue the license applied for, the fee and

bond shall be returned to the applicant. Each debt consolidating agency must procure a license.

(2) The debt consolidating agency shall pay for its original application for a license, a license fee of \$100 plus a fee of \$50 for each branch office in this state. A debt consolidating agency applying for a renewal of its license shall pay a license fee of \$50 plus a fee of \$50 for each branch office in this state.

[1959 c 635 §12]

**697.670 Issuance of licenses; renewal; form; display.** (1) The commissioner shall issue to each applicant entitled thereto, as a previous licensee under ORS 697.610 to 697.785, a renewal license upon receipt of the proper application, bond and fee before July 1 of the fiscal year for which the license is to be issued.

(2) Upon failure to file the application for renewal, bond and fee before July 1 of the fiscal year for which the license is to be issued, the commissioner may, in his discretion, accept a later payment, subject to such conditions as he may specify. Any licensee who fails to pay his renewal fee before July 1 shall, in addition to the regular license fee, be penalized \$5, payable to the commissioner, before a renewal license is granted. The commissioner shall notify the delinquent licensee of his failure to apply as required by this section. This notification shall be by registered mail, addressed to the principal place of business of the licensee as shown by the commissioner's records, notifying him of his failure to apply. The notification shall state that the licensee's license will be revoked unless the application for renewal, renewal of the bond and payment of the renewal license fee together with the \$5 penalty is submitted within 15 days from the date of mailing the notice. Notwithstanding ORS 697.760, failure to file within the prescribed 15 days shall work an automatic forfeiture of the delinquent's license unless just cause is shown for a further extension of time. Any provisions of ORS chapter 183 which conflict with this subsection are hereby superseded.

(3) The license mentioned in this section shall be of the form and size prescribed by the commissioner. Each license shall show the name and residence address of the licensee, the business name and address of the licensee, the date of expiration of such license and such other matter as may be

prescribed by the commissioner. While any such license is in force it shall at all times be displayed in a conspicuous place in the outer office of the debt consolidating agency. [1959 c 635 §13]

**697.675 Grounds for denial, suspension or revocation of license.** (1) A debt consolidating agency license or renewal thereof shall be denied in every case in which the applicant, if an individual, or any member of the firm, if the applicant is a partnership or any of its officers or directors, if the applicant is a corporation or association, has ever been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other like offense, or has been disbarred from the practice of law.

(2) The occurrence of any of the grounds listed in subsection (1) of this section while a debt consolidating agency license is in effect, shall constitute grounds for the suspension or revocation of the license by the commissioner. [1959 c 635 §14]

**697.680 Person soliciting business for debt consolidating agency required to have certificate.** No person shall solicit or attempt to solicit business for a debt consolidating agency by himself or by any other person without a solicitor's certificate, or fail to display the certificate upon request of the person being solicited, or fail to surrender his solicitor's certificate to his employer or the commissioner within five days after the termination of his employment [1959 c 635 §17]

**697.685 Solicitor to present pocket card upon demand.** Any person who solicits or attempts to solicit property from a debtor or assignments of his wages, salaries, income or credits for the purpose of paying the net proceeds of such property, wages, salaries, income or credits to creditors of the debtor, by himself or by any other person, shall, on demand of any person being solicited, present a pocket card issued by the commissioner showing that he is a licensee, or the employe of a debt consolidating agency licensed in accordance with ORS 697 610 to 697 785. [1959 c 635 §15]

**697.690 Solicitor's certificate and pocket card.** (1) The commissioner shall issue one solicitor's certificate and pocket card free to

each licensed debt consolidating agency and shall issue a solicitor's card to any qualified employe of such agency upon written application therefor, on forms supplied by the commissioner, and upon the payment of a fee of \$2.

(2) Solicitors' certificates and pocket cards shall be granted only to persons who are citizens of the United States and who shall submit such proof as required by the commissioner of their honesty, truthfulness, integrity, good reputation and competency. The application for a solicitor's certificate shall be signed by the applicant and his employer. The solicitor's certificate shall be kept at the principal place of business of his employer.

(3) The solicitor's card shall contain the name of the solicitor, the name and address of the debt consolidating agency by whom he is employed and such other matter as shall be prescribed by the commissioner. All such solicitor's pocket cards shall expire on June 30 after issue or upon the revocation or suspension of his employer's license. [1959 c 635 §16]

**697.695 Assignability of licenses; procedure on death of licensee.** (1) Except as provided in subsection (2) of this section, any license granted under ORS 697.610 to 697.785 is a personal privilege and shall not be assignable.

(2) Upon the death of any licensee the commissioner shall have the right to transfer the license of the decedent to the executor or administrator of his estate for the period of the unexpired term of the license and thereupon the court having jurisdiction of the probate of the estate of said decedent may authorize such executor or administrator to continue the business of debt consolidating formerly carried on by the decedent pursuant to the provisions of ORS 116.170 to 116.180, and upon such other terms and conditions as the court may prescribe. [1959 c 635 §18]

**697.700 Procedure on change of name or address of business.** Upon change of an assumed business name or removal from the address stated in any license issued under ORS 697.610 to 697.785, the licensee shall, within five days thereafter deposit his license and full information regarding the change with the commissioner and pay a fee of \$5. The commissioner shall note on the

face of the license the change so made and make an appropriate entry in his records and return the license to the licensee.

[1959 c.635 §19]

**697.705 Expiration date of licenses.** All licenses issued under ORS 697.610 to 697.785 expire on June 30 following the issuance thereof.

[1959 c 635 §20]

**697.710 Annual statement concerning business.** Each licensee, or a partner or officer thereof, shall, not later than January 31 of each calendar year, file with the commissioner a duly verified annual statement for the preceding calendar year, listing all property other than wages, salaries, income and credits received from each debtor and showing the respective amounts of each debtor's wages, salaries, income and credits received and the proceeds of each debtor's property sold by the licensee during the preceding calendar year, which have not been remitted to creditors of the debtor entitled thereto or property which has not previously been accounted for, and showing also the amount of each debtor's wages, salaries, income and credits and the proceeds of each debtor's property sold by the licensee which the licensee has on deposit in any bank or in the licensee's possession for the purpose of liquidating any and all amounts due to creditors of such debtors.

[1959 c.635 §21]

**697.715 False declarations in annual statement prohibited.** The wilful making of any false declaration in the annual statement required under ORS 697.710 is a violation of this section and is sufficient grounds for revocation of the license of the licensee after hearing and determination as provided in ORS 697.610 to 697.785.

[1959 c 635 §22]

**697.720 Consequences for failure to file annual statement.** If the annual statement is not filed as required, the failure to file it is grounds for the immediate suspension of the license of the licensee so failing to file the statement and the commissioner shall notify the licensee by registered mail that the license of the licensee will be suspended upon the expiration of the period of 10 days thereafter unless the licensee complies with the provisions of ORS 697.710. However, for good cause shown and upon satisfactory proof furnished by the licensee that the failure to file the statement was due to a con-

dition not within the control, or was due to excusable neglect, of the licensee, the commissioner may permit the filing of the statement after the time limited and excuse the failure to file the statement within the time limited. If the statement required by ORS 697.710 is not filed with the commissioner as required in this section or ORS 697.710, the commissioner shall revoke the license of such licensee.

[1959 c 635 §23]

**697.725 Statements of applicants and licensees confidential.** Any statement of any applicant or licensee required by ORS 697.610 to 697.785 to be filed with the commissioner shall be confidential and shall not become a public record, but it may be introduced in evidence in any suit, action or proceeding in any court or in any proceeding involving the granting or revocation of the license of any licensee.

[1959 c 635 §24]

**697.730 Investigation of alleged or suspected violations.** The commissioner may, upon his own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any person or persons, claimed to have violated ORS 697.610 to 697.785, and for that purpose the commissioner shall have free access during all reasonable hours to the offices and places of business, books, accounts, records, papers, files, safes and vaults of all such persons, but no complaint shall be held to be sufficient basis for the denial, revocation or suspension of a license unless it specifies in detail the charges made against the licensee.

[1959 c 635 §25]

**697.735** [Reserved for expansion]

**697.740 Acts required or prohibited in conduct of licensee's business.** (1) Every licensee shall make a permanent record of all debtors' wages, salaries, income, credits or property received by him, and of all debtors' property sold by him for the purpose of remitting the proceeds to creditors of such debtors, and of all disbursements to creditors of such debtors made by him, and shall maintain and keep all such records and all such wages, salaries, income, credits or property, or proceeds thereof, in this state. No person shall intentionally make any false entry in any such record, or intentionally mutilate, destroy or otherwise dispose of any such record. Such records shall at all times be

open for inspection by the commissioner or his authorized agent.

(2) A licensee shall not commingle debtors' wages, salaries, income, credits or property received by him or the proceeds of debtors' property sold by him with his own property or funds, but shall maintain a separate trust account for such wages, salaries, income, credits or property, or proceeds thereof.

(3) A debt consolidator shall make no set-up charge nor consultation charge nor take his fee at a faster rate than the rate of distribution to any unsecured creditor who is willing to accept payments from the consolidator. No debt consolidating agency shall take or receive for services performed by it for any one person more than 15 percent of the amount received by it at any one time from or on behalf of that person.

[1959 c 635 §26]

**697.745 Reports to debtors and payments to creditors required of agency.** Every debt consolidating agency shall, within 30 days after the close of each calendar month, make a report to each debtor showing all payments made by the agency to his creditors and pay to such creditors the net proceeds of all wages, salaries, income, credits or property of the debtor received during that calendar month.

[1959 c 635 §27]

**697.750 Action by debtor on agency bond.** If a debt consolidating agency has failed to account to a debtor or pay over a debtor's wages, salaries, income, credits or property, or proceeds from the sale thereof, to the debtor's creditors, the debtor shall have, in addition to all other legal remedies, a right of action in his own name on the bond given pursuant to the provisions of ORS 697.610 to 697.785 for any loss suffered by him, not exceeding the face of the bond, and without the necessity of joining the debt consolidating agency in such suit or action. No action shall be brought upon any bond given under ORS 697.610 to 697.785 after the expiration of two years from the revocation or expiration of the license issued thereon, and the total of all recoveries from the sureties shall not exceed the face of the bond. Upon entering judgment for plaintiff in any action on the bond required by ORS 697.610 to 697.785 for more than the sum tendered in court by the defendant, if any, the court shall include in the judgment rea-

sonable compensation for the service of plaintiff's attorney in the action.

[1959 c 635 §30]

**697.755 General grounds for suspension or revocation of license.** Failure to comply with ORS 697.610 to 697.785 or any lawful order of the commissioner, is sufficient cause for suspension or revocation of any license issued under ORS 697.610 to 697.785

[1959 c 635 §28]

**697.760 Hearing required before suspension or revocation of license.** The commissioner shall, before denying any application for license or before suspending or revoking any license, set the matter down for hearing in the manner provided in ORS chapter 183.

[1959 c 635 §29]

**697.765 Commissioner's powers in enforcement of ORS 697.610 to 697.785.** The commissioner shall enforce the provisions of ORS 697.610 to 697.785, and he shall have full power to issue licenses and solicitors' certificates to applicants and to deny, suspend or revoke licenses or solicitors' certificates for any violation of ORS 697.610 to 697.785, and to perform all other acts and duties provided for in ORS 697.610 to 697.785 and necessary to its enforcement. The commissioner shall establish and enforce rules and regulations as may be reasonable and necessary for the examining and licensing of applicants and for the conduct of licensees and solicitors. He shall employ such clerks and assistants as he may need to discharge the duties imposed upon him by ORS 697.610 to 697.785 and fix their compensation, which shall be paid as other state salaries are paid.

[1959 c 635 §31]

**697.770 Records of commissioner as evidence.** Copies of all records and papers in the office of the commissioner, certified to be a true copy by the commissioner, shall be received in evidence in all cases equally and with like effect as the originals.

[1959 c 635 §32]

**697.775 Publication of directory.** On or about September 1 in each year, the commissioner shall publish a directory containing a list of all the licensed debt consolidating agencies in this state and a copy of ORS 697.610 to 697.785 and such other material as the commissioner shall prescribe, and without charge therefor mail one copy to

each licensed debt consolidating agency, and one to each person in the state upon request. [1959 c 635 §33]

**697.780 Disposition of receipts; Debt Consolidating Agencies Account.** (1) All fees, fines and penalties provided for in ORS 697.610 to 697.785 shall be paid to the commissioner, and by him paid to the State Treasurer at the end of every calendar month and shall be placed in an account in the General Fund to be known as the Debt Consolidating Agencies Account. All such funds so received and paid to the State Treasurer, or so much thereof as may be necessary, shall be continuously appropriated for the payment of the expenses and salaries incurred under ORS 697 610 to 697 785, including the payment of such part of the salary of the commissioner as may be fixed by law to be paid from funds received under ORS 697.610 to 697.785.

(2) All money remaining in the General Fund of the State Treasury to the credit of the Debt Consolidating Agencies Account on June 30 of each year, except \$3,000, and except all money which has been collected for licenses issued, or to be issued, for the succeeding year, shall be transferred from the Debt Consolidating Agencies Account to the General Fund to become available for general governmental purposes. [1959 c 635 §34, 1961 c 309 §7]

**697.785 Remedies not exclusive.** The remedies provided for in ORS 697.610 to

697.785 are in addition to and not exclusive of any other remedies provided by law. [1959 c 635 §35]

697.790 to 697.980 [Reserved for expansion]

### PENALTIES

**697.990 Penalties.** (1) Violation of any of the provisions of this chapter by an individual is punishable, upon conviction, by a fine of not more than \$500 or by imprisonment for a term not to exceed six months, or by both.

(2) Violation of this chapter by a corporation is punishable, upon conviction, by a fine of not more than \$1,000. Any officer or agent of a corporation or association who personally participates in any violation of this chapter by such corporation or association is subject to the penalties prescribed in subsection (1) of this section.

(3) Violation of ORS 697.680 is punishable, upon conviction, by a fine of not more than \$100, or by imprisonment not to exceed 30 days, or by both

[Amended by 1959 c 525 §35, subsection (1) derived from subsection (1) of 697 990 (1957 Replacement Part) and subsection (1) of 1959 c 635 §37, subsection (2) derived from subsection (2) of 697 990 (1957 Replacement Part) and subsection (2) of 1959 c 635 §37, subsection (3) derived from subsection (3) of 1959 c 635 §37]

**697.992 Jurisdiction of courts.** Justice courts and district courts have concurrent jurisdiction with circuit courts in all criminal prosecutions for violation of this chapter. [Derived from 697 480 (1957 Replacement Part) and 1959 c 635 §36]

### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law. Done at Salem, Oregon, on December 1, 1961

Sam R. Haley  
Legislative Counsel

