

Chapter 697

1981 REPLACEMENT PART

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COLLECTION AGENCY BUSINESSES

697.005 Definitions for ORS 697.005 to 697.075. As used in ORS 697.005 to 697.075:

(1) "Department" means the Department of Commerce.

(2) "Director" means the Director of Commerce. [1981 c 85 §2]

697.010 [Amended by 1959 c 525 §1, 1963 c 580 §58; 1975 c 364 §1; 1977 c 185 §4, repealed by 1981 c 85 §17]

697.015 Registration to engage in collection agency business required. A person shall not engage in the collection agency business in this state unless the person registers with the department under ORS 697.031 and maintains the registration in accordance with that section. For purposes of this section, any of the following are engaged in the collection agency business:

(1) A person in the business of engaging, directly or indirectly, in the solicitation or collection of claims owed, due or asserted to be owed or due to another person.

(2) A person in the business of engaging in the solicitation of the right to repossess or in the repossession of collateral security due or asserted to be due to another person.

(3) A person who in the collection of claims from another person:

(a) Uses any name other than the name regularly used in the conduct of the business out of which the claim arose; and

(b) Engages in any action or conduct that tends to convey the impression that a third party has been employed or engaged to collect the claim. [1981 c 85 §3]

697.020 [Amended by 1953 c 519 §2, 1959 c 525 §2, 1963 c 558 §1, 1969 c 373 §5, 1973 c 547 §1, 1975 c 364 §2; repealed by 1977 c 185 §5 (697 021 enacted in lieu of 697 020)]

697.021 [1977 c 185 §6 (enacted in lieu of 697 020), repealed by 1981 c 85 §17]

697.025 Application of ORS 697.005 to 697.075. The following are exempt from the requirement under ORS 697.015 to register under ORS 697.031 before engaging in a collection agency business:

(1) Any attorney-at-law rendering services in the performance of the duties of an attorney-at-law.

(2) Any licensed certified public accountant or public accountant rendering services in the performance of the duties of a licensed

certified public accountant or public accountant.

(3) Any bank, mutual savings bank, consumer finance company, trust company or savings and loan association.

(4) Any real estate licensee or escrow agent licensed under the provisions of ORS chapter 696, as to any collection or billing activity involving a real estate transaction or collection escrow transaction of such licensee or escrow agent.

(5) Any individual regularly employed as a credit person or similar capacity by one person, firm, or corporation which is not engaged in the business of a collection agency.

(6) Any public officer or any person acting under order of any court.

(7) Any person acting as a property manager in collecting or billing for rent, fees, deposits or other sums due landlords of managed units.

(8) A person while that person is providing billing services. A person is providing billing services for purposes of this subsection if the person engages, directly or indirectly, in the business or pursuit of collection of claims for other persons, whether in the other person's name or any other name, by any means that:

(a) Is an accounting procedure, preparation of mail billing or any other means intended to accelerate cash flow to the other person's bank account or to any separate trust account; and

(b) Does not include any personal contact or contact by phone with the person from whom the claim is sought to be collected.

(9) A person while that person is providing factoring services. A person is providing factoring services for purposes of this subsection if the person engages, directly or indirectly, in the business or pursuit of:

(a) Lending or advancing money to commercial clients on the security of merchandise or accounts receivable and then enforcing collection actions or procedures on such accounts; or

(b) Soliciting or collecting on accounts which have been purchased from commercial clients under an agreement whether or not the agreement:

(A) Allows recourse against the commercial client;

(B) Requires the commercial client to provide any form of guarantee of payment of the purchased account; or

(C) Requires the commercial client to establish or maintain a reserve account in any form.

(10) Any individual employed by another person who engages in a collection agency business if the person does not engage in a collection agency business independent of that employment. [1977 c 185 §3; 1981 c 85 §4]

697.030 [Amended by 1959 c 525 §3; 1975 c 364 §3; 1977 c 185 §7, repealed by 1981 c 85 §17]

697.031 Registration procedure. (1) The director shall establish by rule a program for registration of persons engaged in collection agency business who are required to register with the department by ORS 697.015. The program shall include a requirement that persons registering with the department file and maintain with the department current information the department requires by rule. The department shall only require the following information for registration under this section:

(a) The name and address of the person engaging in the collection agency business;

(b) The name and address of the collection agency business;

(c) Any assumed names or business names used by the collection agency business;

(d) Names of persons who perform the solicitation or collection of claims or who perform the solicitation of the right to repossess or the repossession of collateral security for the collection agency business; and

(e) Names of persons who are agents of the collection agency business for purposes of service of legal process.

(2) The director may include any of the following in the program for registration established under this section:

(a) The director may require any filings with the department that the director determines to be necessary to maintain current the information required for registration. Filings required under this subsection may include renewal of registration at reasonable intervals, filings within a reasonable time after changes in a collection agency business or other filings the director determines to be necessary. In requiring filings under this subsection, the director shall attempt to min-

imize burdens the filings might place on persons required to file.

(b) The director may establish and require persons filing with the department under this section to pay fees for any registration or filing made with the department. The director shall only establish fees under this section with the approval of the Executive Department and shall not establish fees for more than an amount necessary to cover the administrative costs of the filing or registration.

(c) The program may be established in any division of the department the director determines to be best able to administer the program.

(d) The director may issue, but may not require, certificates of registration or other indicia of registration that the director determines will be of assistance to persons engaged in a collection agency business in establishing that the persons are registered with the department.

(3) The department shall maintain current records of the information required for registration under this section. [1981 c 85 §5]

697.035 [1959 c 525 §10; 1963 c 558 §2; 1971 c 119 §2; 1974 s s c 25 §2; 1975 c.364 §4; 1977 c 873 §20; repealed by 1981 c 85 §17]

697.038 [1971 c 119 §1; 1973 c 547 §2; 1974 s s c 25 §3, 1975 c 364 §5, repealed by 1981 c 85 §17]

697.039 Grounds for discipline. (1) The department may refuse to issue or renew or may revoke or suspend any registration under ORS 697.031 if the department determines that:

(a) Any information a person files with the department under ORS 697.031 is false or untruthful;

(b) A person has violated any of the rules of the department for registration under ORS 697.031; or

(c) A person has violated the provisions of ORS 697.045 or 697.058.

(2) A revocation or suspension under this section may be for a time certain or upon condition that certain acts be performed.

(3) Actions of the department under this section are subject to the provisions of ORS 183.310 to 183.550. [1981 c 85 §6]

697.040 [Repealed by 1959 c 525 §36]

697.041 [1959 c 525 §11, 1963 c 558 §3; 1969 c.373 §6; 1973 c 547 §3; 1973 c 827 §79; 1974 s s c 36 §22; 1975 c.364 §6; repealed by 1981 c.85 §17]

697.045 Status of accounts and claims assigned to agency; rights of assignor; access to courts requires agency be registered. (1) A registered collection agency has a property right in any claim or account assigned to the agency in writing for collection. Except as may be otherwise provided in writing between the assignor of the claim or account and the registered collection agency, the registered collection agency as assignee of the claim or account, in its own name, may:

- (a) Collect the claim or account;
- (b) Compromise or accept settlement of the claim or account;
- (c) Bring and maintain a civil suit or action to recover the amount owing from the claim or account; and
- (d) With prior written approval of the assignor, transfer or forward the claim or account to another collection agency for collection.

(2) Except as may be otherwise provided in writing between the assignor of the claim or account and the registered collection agency, the assignor may withdraw the claim or account from the agency at any time without condition or charge.

(3) No collection agency is entitled to bring or maintain any civil suit or action involving the collection of a claim or account on behalf of its customers in any courts of this state without alleging and proving that it is duly registered under ORS 697.015 and 697.031. A registration certificate or a certification of registration by the director for any designated time period shall be received by the court as prima facie evidence of the collection agency's registration for the time period designated. [1981 c 85 §7]

697.050 [Repealed by 1959 c 525 §36]

697.051 [1963 c 558 §17, 1977 c 185 §8, repealed by 1981 c 85 §17]

697.053 Registration exclusive regulation; local fees authorized. The provisions of ORS 697.015 and 697.031 are exclusive and no political subdivision or agency of this state may require of a collection agency any registration, license or fee for any collection agency duly registered under ORS 697.015 and 697.031. Nothing in this section limits the authority of any political subdivision to levy and collect a general and nondiscriminatory license or registration fee upon all businesses in the political subdivision or to levy a tax based upon the business conducted by any

registered collection agency within the political subdivision. [1981 c 85 §8]

697.055 [1975 c 364 §37, 1977 c 185 §9, repealed by 1981 c 85 §17]

697.058 Agency records; trust accounts; reporting requirements. (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 collection agency record or intentionally mutilate, destroy or otherwise dispose of any such record within the time limits provided in this section.

(2) No collection agency shall commingle the money of customers with other moneys, but shall maintain a separate trust account in this state for customers' funds and shall keep funds in such trust account until disbursed to the customer.

(3) Every collection agency which requires customers to pay an amount for services prior to the time that the services are rendered shall maintain a separate trust account in this state for prepayments and shall keep prepayment funds in the trust account for 180 days or until the services for which prepayment is made are performed, whichever occurs first.

(4) 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.

(5) Upon the director's own motion or upon receipt of a complaint by a customer of the collection agency, the director may audit the collection agency's trust accounts with respect to any violation by the collection agency of the provisions of this section. The reasonable cost of such audit, as determined by the director, shall be paid by the collection agency. [1981 c 85 §9]

697.060 [Repealed by 1959 c 525 §36]

697.061 [1959 c 525 §5; 1963 c 558 §4, 1963 c 580 §59, 1973 c 547 §4, 1975 c 364 §7, repealed by 1981 c 85 §17]

697.070 [Amended by 1959 c 525 §6, 1961 c 686 §1; 1969 c 373 §7, 1971 c 119 §3; 1973 c 547 §5, 1974 s s c 25 §4; 1975 c 364 §8, 1977 c 873 §21, repealed by 1981 c 85 §17]

697.075 Nonresident registrant; director as agent for service; method of service. The acceptance, by a nonresident, of a registration as a collection agency under ORS 697.031 shall be deemed equivalent to an appointment by such nonresident of the director as the nonresident's true and lawful attorney, upon whom may be served any lawful summons, process or pleading in any action or suit against the nonresident in any court of this state, arising out of any business done by the nonresident as a collection agency in this state, and such acceptance shall be deemed equivalent to an agreement by the nonresident that any summons, process or pleading so served shall be of the same legal force and validity as if served on the nonresident personally in this state. If it appears by the certificate of the sheriff of the county in which any action or suit has been filed against the nonresident registrant, that the defendant cannot be found in this state, services of any summons, process or pleading in the action or suit may be made leaving a copy thereof, with a fee of \$2, in the hands of the director or in the director's office. Such service shall be sufficient and valid personal service upon the defendant; provided that notice of such service and copy of the summons, process or pleading is sent forthwith by registered mail by the plaintiff or the plaintiff's attorney to the defendant, at the most recent address furnished to the director by the nonresident registrant or to the registrant's last-known address, and the affidavit of the plaintiff or the plaintiff's attorney of such mailing is appended to the summons, process or pleading and entered as a part of the return thereof. However, personal service outside of the state in accordance with the statutes relating to personal service of summons outside of the state shall relieve the plaintiff from such mailing requirement. Any summons served as provided in this section shall require the defendant to appear and answer the complaint within four weeks after receipt thereof by the director. The fee of \$2 paid by the plaintiff to the director shall be taxed as costs in favor of the plaintiff if the plaintiff prevails in the action. The director shall keep a record of each summons, process or pleading served upon the

director under this section, showing the day and hour of service. [1981 c 85 §16]

697.080 [Amended by 1959 c 525 §7, 1963 c 558 §5; 1969 c 373 §8, 1975 c 364 §9; repealed by 1981 c 85 §17]

697.090 [Repealed by 1959 c 525 §36]

697.100 [Amended by 1959 c 525 §8, 1969 c 373 §9; 1975 c 364 §10; repealed by 1981 c 85 §17]

697.110 [Repealed by 1959 c 525 §36]

697.111 [1959 c 525 §12, 1961 c 686 §2, 1963 c 558 §15, 1974 s s c 25 §5; 1975 c 364 §11, repealed by 1981 c 85 §17]

697.120 [Amended by 1953 c 520 §5, 1961 c 686 §3; 1974 s s c 25 §6; 1975 c.364 §12, repealed by 1981 c 85 §17]

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 [1959 c 525 §13; 1961 c 686 §4, 1963 c 558 §6, 1971 c 119 §4, 1974 s s c 25 §7, 1975 c 364 §13, repealed by 1981 c 85 §17]

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 [Amended by 1959 c 525 §16, 1963 c 558 §16, 1963 c 580 §60, 1969 c 591 §300; 1975 c 364 §14; repealed by 1981 c 85 §17]

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

697.180 [Repealed by 1959 c 525 §36]

697.181 [1959 c 525 §14, 1963 c 580 §61, 1969 c 373 §10, 1975 c 364 §15; repealed by 1981 c 85 §17]

697.190 [Amended by 1959 c 525 §17, 1963 c 558 §7, 1975 c 364 §16, repealed by 1981 c 85 §17]

697.200 [Amended by 1975 c 364 §17, repealed by 1981 c 85 §17]

697.210 [Amended by 1959 c 525 §18, 1963 c 580 §62, 1975 c 364 §18, repealed by 1981 c 85 §17]

697.220 [Amended by 1959 c 525 §19, repealed by 1973 c 794 §34]

697.230 [Amended by 1959 c 525 §20; 1963 c 558 §8, 1963 c 580 §63, 1975 c 364 §19; repealed by 1981 c 85 §17]

697.235 [1959 c 525 §22; 1975 c 364 §20, 1977 c 185 §10; repealed by 1981 c 85 §17]

697.240 [Amended by 1957 c 429 §2, 1959 c 525 §23; 1963 c 558 §9, 1975 c 364 §21, repealed by 1981 c 85 §17]

697.245 [1974 s s c 25 §9, 1975 c 364 §22, repealed by 1981 c 85 §17]

697.250 [Amended by 1959 c 525 §24, 1975 c 364 §23, 1977 c 185 §11, repealed by 1981 c 85 §17]

697.260 [Repealed by 1959 c 525 §36]

697.261 [1959 c.525 §15; 1963 c 558 §10, 1963 c 580 §64; 1969 c 373 §11, 1973 c 547 §6; 1975 c 364 §24; repealed by 1981 c 85 §17]

697.270 [Amended by 1959 c 525 §25; repealed by 1971 c 734 §21]

697.271 [1975 c 364 §33, repealed by 1981 c 85 §17]

697.273 [1975 c 364 §34; repealed by 1981 c 85 §17]

697.275 [1963 c 580 §57, 1975 c 364 §25, repealed by 1981 c 85 §17]

697.280 [Repealed by 1959 c 525 §36]

697.281 [1975 c 364 §36, repealed by 1981 c 85 §17]

697.285 [1963 c 580 §56; repealed by 1975 c 364 §38]

697.290 [Amended by 1959 c.525 §26; 1963 c 558 §11; 1971 c 119 §5; 1975 c 364 §26, repealed by 1981 c 85 §17]

697.295 [1977 c 185 §2; repealed by 1981 c 85 §17]

697.300 [1969 c 373 §2, 1975 c 364 §27, repealed by 1981 c 85 §17]

697.305 [1969 c 373 §3; 1975 c 364 §28, repealed by 1981 c 85 §17]

697.310 [1969 c.373 §4; 1975 c 364 §29; repealed by 1981 c 85 §17]

697.330 [1975 c.364 §35; repealed by 1981 c 85 §17]

697.400 [Repealed by 1959 c 525 §36]

697.401 [1959 c 525 §29, 1963 c 558 §12, repealed by 1963 c 580 §103]

697.402 [1963 c.580 §52, 1969 c.314 §98, 1971 c 753 §39; 1975 c 364 §30; 1977 c 185 §12, repealed by 1981 c 85 §17]

697.410 [Repealed by 1959 c 525 §36]

697.411 [1959 c.525 §30, 1963 c 558 §13, repealed by 1963 c 580 §103]

697.412 [1963 c 580 §54; repealed by 1971 c 753 §74]

697.420 [Repealed by 1959 c 525 §36]

697.421 [1959 c 525 §31; repealed by 1963 c 580 §103]

697.422 [1963 c 580 §55; 1975 c 364 §31; 1977 c.185 §13; repealed by 1981 c.85 §17]

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

697.440 [Amended by 1959 c 525 §32; repealed by 1981 c 85 §17]

697.450 [Amended by 1959 c 525 §33, repealed by 1971 c 753 §74]

697.460 [Amended by 1959 c.525 §34; 1963 c.558 §14, 1967 c 216 §1; repealed by 1971 c 753 §74]

697.470 [Repealed by 1981 c.85 §17]

697.480 [Renumbered as part of 697 992]

DEBT CONSOLIDATING AGENCIES

Note: Section 2, chapter 631, Oregon Laws 1981, provides

Sec. 2. This section subjects the regulation of debt consolidating agencies by the Real Estate Commissioner to automatic review by the Legislative Assembly under ORS 182.605 to 182.635. For purposes of ORS 182.605 to 182.635 the functions of the Real Estate Commissioner related to regulation of debt consolidating agencies constitute an agency. Subject to the review provided under this section, ORS 697.610, 697.615, 697.620, 697.625, 697.630, 697.635, 697.640, 697.645, 697.650, 697.655, 697.657, 697.660, 697.665, 697.670, 697.675, 697.680, 697.685, 697.690, 697.695, 697.700, 697.705, 697.710, 697.715, 697.720, 697.730, 697.733, 697.737, 697.740, 697.743, 697.745, 697.750, 697.765, 697.770, 697.775, 697.780, 697.783, 697.785, 697.790, 697.810, 697.820 and 697.830 are repealed on February 1, 1983

697.610 Definitions for ORS 697.610 to 697.655 and 697.660 to 697.785. As used in ORS 697.610 to 697.655 and 697.660 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" and "debt consolidating agency" 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 697.655 and 697.660 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, 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, credit unions, 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.

(3) In addition to other persons not included in the term "debt consolidating agency" under subsection (2) of this section, such term does not include an agency organized as a nonprofit corporation under ORS chapter 61 to provide debt consolidating and credit counseling service to the public. Such organization shall advise the commissioner of the date it undertakes to provide such services to the public and its annual accounting period and in addition must show that they have received exemption from taxation under subsection (c) of section 501 of the Internal Revenue Code of 1954 (as amended and in effect on September 13, 1975). Further, after December 31, 1969, such organization shall submit to the commissioner an annual report within 120 days of the close of the organization's annual accounting period which shall show its total income and the sources thereof, by major classification its expenditures, the salaries of all personnel, the total dollar volume of accounts handled, the number of individuals served and the membership of its board of directors. The commissioner shall have the right to investigate the records, including debtor files, bank accounts and trust accounts, of any such organization to verify the validity of any information contained in the annual report. If the organization fails to comply with the requirements of this subsection it shall become subject to the requirements of ORS 697.610 to 697.655 and 697.660 to 697.785. [1959 c 635 §2, 1969 c 334 §1, 1975 c 761 §1]

697.620 License required for business of debt consolidating. (1) Without first having applied for and obtained a license under ORS 697.610 to 697.655 and 697.660 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 697.655 and 697.660 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 18 years of age or older 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, 1973 c 827 §80]

697.630 Educational qualifications of original applicant or its officers and directors. (1) An original applicant for a license under ORS 697.610 to 697.655 and 697.660 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) An appointment of the commissioner as agent of the applicant for service of process in this state.

(6) A bond running to the State of Oregon with a surety or sureties to the satisfaction of the commissioner, and conditioned upon strict, honest and faithful compliance by the applicant with the provisions of ORS 697.610 to 697.655 and 697.660 to 697.785, or, in lieu of

such bond, a deposit of securities as provided in ORS 697.657. A blanket fidelity bond covering all the officers and employes of the applicant of at least \$5,000. [1959 c.635 §7; 1963 c.470 §7, 1975 c 761 §2]

697.645 Debt consolidating agency bond. The bond provided for in ORS 697.640 (6) 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. 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 expiration 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 697.655 and 697.660 to 697.785 shall be filed and held in the office of the commissioner.

[1959 c 635 §8; 1963 c.470 §8]

697.650 Amount of bond. When an applicant or licensee operates more than one office, the commissioner shall ascertain the number of additional offices and set the amount of the bond required. [1959 c 635 §9; 1963 c 470 §9, 1975 c 761 §3]

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 697.655 and 697.660 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 strictly, honestly and faithfully comply with the provisions of ORS 697.610 to 697.655 and 697.660 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, 1963 c 470 §10]

697.657 Deposit of money or negotiable securities in lieu of bond. (1) An applicant for a debt consolidating agency license

may furnish, file and deposit with the commissioner, in lieu of the surety bond provided for in ORS 697.650, money or bonds, negotiable by delivery, of the State of Oregon, school districts therein of the first class, or of any county therein, or obligations of the United States, or obligations for which the faith of the United States is pledged for the payment of both the principal and interest, equal in amount to the amount of the bond required by the commissioner.

(2) So long as the deposit remains unencumbered, the depositor is entitled to collect the interest upon such securities.

(3) The commissioner shall hold the securities upon such terms as he shall designate and approve pursuant to the provisions of ORS 697.610 to 697.655 and 697.660 to 697.785, and shall deliver such securities to the State Treasurer, who shall receive and hold them subject to the lawful orders of the commissioner. The State Treasurer and his surety shall be liable upon his official bond for their safekeeping. The depositors shall reimburse the State Treasurer for any expenses incurred by him in the mailing, insuring, shipping or delivering of any such securities, or of the interest coupons attached thereto as they mature.

(4) Such substituted security shall be subject to the liabilities imposed by the terms of the bond prescribed in ORS 697.655.

(5) The securities provided for in this section shall not be subject to withdrawal or assignment by the holder of the license, either voluntarily or by operation of law, until the expiration of one year after the holder of the license in connection with which they are furnished:

(a) Has substituted therefor a surety bond as provided in ORS 697.655;

(b) Has his license revoked; or

(c) Has surrendered such license to the commissioner for revocation and has ceased operation thereunder.

(6) If any such securities become impaired in value, the commissioner shall require additional protection by bond to the extent that the value of the securities, or any of them, may have become impaired. [1963 c 470 §11]

697.660 Examination of new applicants; fee. Each applicant not previously licensed under ORS 697.610 to 697.655 and 697.660 to 697.785 but making an original

application for a license under ORS 697.610 to 697.655 and 697.660 to 697.785 shall, before being licensed, in addition to complying with the other provisions of ORS 697.610 to 697.655 and 697.660 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 697.655 and 697.660 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 697.655 and 697.660 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 697.655 and 697.660 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) 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 \$150 plus a fee of \$100 for each branch office in this state. A debt consolidating agency applying for a renewal of its license shall pay a license fee of \$150 plus a fee of \$100 for each branch office in this state.

(3) If the effective period of the license applied for is less than 12 months by reason of the statutorily required expiration date, the license fee shall be prorated to represent the larger of:

(a) One-twelfth of the full fee for each month of the license period to the expiration date, rounded to the nearest dollar; or

(b) 25 percent of the full fee, rounded to the nearest dollar. [1959 c 635 §12, 1963 c 546 §3, 1977 c 873 §22]

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

697.655 and 697.660 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. 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 183.310 to 183.550 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:

(a) In default in the payment of money collected for others, while operating a debt consolidating agency or similar debt-pooling or debt-adjusting agency in this state or else-

where, including the discharge of such debts through bankruptcy proceedings;

(b) Convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, theft, theft by extortion, conspiracy to defraud or other like offense; or,

(c) 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.

(3) Failure to comply with ORS 697.610 to 697.655 and 697.660 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 697.655 and 697.660 to 697.785. [1959 c 635 §14, 1963 c 470 §12, 1971 c 743 §410]

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 697.655 and 697.660 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 697.655 and 697.660 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 personal representative 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 personal representative to continue the business of debt consolidating formerly carried on by the decedent pursuant to the provisions of ORS 114.305, and upon such other terms and conditions as the court may prescribe. [1959 c 635 §18, 1969 c 591 §301]

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 697.655 and 697.660 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 697.655 and 697.660 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 697.655 and 697.660 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 condition 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 [1959 c.635 §24; repealed by 1973 c 794 §34]

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 697.655 and 697.660 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]

697.733 Prohibited charge practices and other dealings with debtor. A debt consolidating agency shall not take:

(1) Any contract, promise to pay or other instrument which has any blank spaces when signed by a debtor;

(2) Any negotiable instrument for the debt consolidating agencies' charges;

(3) Any note, wage assignment, real estate or chattel mortgage or other security to secure the debt consolidating agencies' charges;

(4) Any confession of judgment or power of attorney to confess judgment against the debtor or to appear for the debtor in a judicial proceeding;

(5) Concurrent with the signing of the contract or agreement or as a part of the contract or agreement or as part of the application for the contract or agreement, a release of any obligation to be performed on the part of the debt consolidating agency; or

(6) Any contract or agreement which provides for late charges or reserves for liquidated damages in addition to the charges authorized under ORS 697.740 (3). [1963 c 470 §4]

697.737 Notice required before charges made. A debt consolidating agency shall not make any charge unless it notifies, or attempts to notify, all creditors listed in the debt consolidating agencies' contract or agreement with the debtor of the terms for retiring the indebtedness of the debtor. [1963 c 470 §5]

697.740 Licensee's records; handling money and property; charges; advertising. (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 and deposit in such account such wages, salaries, income, credits or property, or proceeds thereof. All disbursements to the debtor or on his behalf, including the licensee's fees, shall be made from such account.

(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 actually paid to creditors on behalf of that person. However, a deposit not to exceed \$20 may be required by the debt consolidating agency, which deposit shall be returned to the debtor upon completion of the contract.

(4) No licensee or other person shall advertise, print, display, publish, distribute or broadcast or cause to permit to be advertised, printed, displayed, published, distributed or broadcast, in any manner whatsoever any false or misleading statement or representation with regard to the rates, terms or services of a debt consolidating agency. [1959 c 635 §26; 1963 c 470 §13]

697.743 Requirements of contract between debtor and agency. (1) Every contract or agreement between the debt consolidating agency and the debtor shall:

(a) Disclose the name and address of the debt consolidating agency and of the debtor;

(b) List every debt to be consolidated with the creditor's name and address and disclose the approximate total of all such debts;

(c) Provide in precise terms payments reasonably within the ability of the debtor to pay;

(d) Disclose in precise terms the rate to be charged by the debt consolidating agency;

(e) Disclose the approximate number and amount of instalments as a schedule showing the ratio or other arrangement made to pay the debts in full;

(f) Contain a provision permitting the debtor to examine the debtor's account in the office of the debt consolidating agency during office hours;

(g) Provide that the debt consolidating contract or agreement shall not be canceled by the debt consolidating agency without the debtor's written authorization while the debtor is employed and his salary is subject to any wage assignment made to the debt consolidating agency; and

(h) Contain such other provision or disclosure as the commissioner shall determine is necessary for the protection of the debtor and the proper conduct of business by a debt consolidating agency.

(2) Every debt consolidating agency shall deliver a copy of any contract or agreement between the debt consolidating agency and the debtor to the debtor immediately after the debtor executes it, and the debtor's copy shall be executed by the debt consolidating agency.

(3) A contract shall not be effective until a debtor has made a payment to the debt consolidating agency for distribution to his creditors [1963 c 470 §2, 3]

697.745 Agency required to report to debtor and pay to creditor. Every debt consolidating agency shall, within 30 days after the close of each calendar month, make a report to each debtor showing the total amount which any creditor has agreed to accept as payment in full on any debt owed him by the debtor and all payments made by the agency to his creditors, and shall 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, 1963 c 470 §14]

697.750 Action 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, his legal representative,

receiver or the commissioner shall have, in addition to all other legal remedies, a right of action in the name of the debtor on the bond or the security given pursuant to the provisions of ORS 697.610 to 697.655 and 697.660 to 697.785 for any loss suffered by the debtor, not exceeding the face of the bond or the security, 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 697.655 and 697.660 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 697.655 and 697.660 to 697.785 for more than the sum tendered in court by the defendant, if any, the court shall include in the judgment reasonable compensation for the service of plaintiff's attorney in the action. [1959 c 635 §30; 1963 c.470 §15]

697.755 [1959 c.635 §28, repealed by 1963 c 470 §17]

697.760 [1959 c.635 §29; repealed by 1971 c.734 §21]

697.765 Commissioner's powers in enforcement of ORS 697.610 to 697.655 and 697.660 to 697.785. (1) The commissioner shall enforce the provisions of ORS 697.610 to 697.655 and 697.660 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 697.655 and 697.660 to 697.785, and to perform all other acts and duties provided for in ORS 697.610 to 697.655 and 697.660 to 697.785 and necessary to its enforcement.

(2) The commissioner may require, in addition to the annual statement required by ORS 697.710, an examination and audit of the books and records of any debt consolidating agency. If required by the commissioner, an examination and audit shall be made by a certified public accountant at the expense of the debt consolidating agency.

(3) If the commissioner finds as a result of an annual statement or examination and audit that a debt consolidating agency is insolvent or conducting business in such an unsafe or injurious manner as to render its further operations hazardous to the public, or if any debt consolidating agency fails to open for business on any three consecutive calendar work days without good cause being shown,

the commissioner may forthwith impound the books and records of the debt consolidating agency and by an order addressed to and served on the debt consolidating agency by registered or certified mail and on any other person having funds of the debt consolidating agency or its customers in that other person's possession, direct discontinuance of the disbursement of such funds and the further conduct of business by the debt consolidating agency. While the order is in effect, the commissioner shall have power of attorney for the purpose of transacting the business of the agency. The order shall be conditioned to remain in effect until:

(a) Set aside by the commissioner in whole or in part;

(b) The debt consolidating agency is adjudged a bankrupt;

(c) A receiver has been appointed by a court of competent jurisdiction pursuant to a petition filed by the commissioner or other interested person; or

(d) The commissioner's failure to hold a hearing within 15 days after receipt of a written request for a hearing by the debt consolidating agency.

(4) 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 697.655 and 697.660 to 697.785 and fix their compensation, which shall be paid as other state salaries are paid. [1959 c 635 §31, 1963 c 470 §16]

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 697.655 and 697.660 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. All fees, fines and penalties provided for in ORS 697.610 to 697.655 and 697.660 to 697.785 shall be paid to the commissioner, and by him paid to the State Treasurer and shall be placed in the Real Estate Account established under ORS 696.490. [1959 c 635 §34; 1961 c 309 §7; 1967 c 216 §2; 1977 c 41 §4]

697.783 Engaging in business unlawfully; enjoining violation. Engaging in the business of debt consolidating without a valid existing license to do so or with a license while violating any provisions of ORS 697.610 to 697.655 and 697.660 to 697.785, hereby is declared to be inimical to the public welfare and to constitute a public nuisance. The commissioner may, in the name of the people of the State of Oregon through the Attorney General or the district attorney of any county in the state, apply for an injunction in any court of competent jurisdiction, to enjoin any person, firm, association or corporation from engaging in the business of debt consolidating. Any such court may, as in cases relating to injunction in the state, issue temporary or permanent injunctions as the circumstances shall require; and in case of the violation of any injunction issued under this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court for each violation. Such injunction proceeding shall be in addition to, and not in lieu of, penalties and remedies otherwise provided. [1963 c 470 §6]

697.785 Remedies not exclusive. The remedies provided for in ORS 697.610 to 697.655 and 697.660 to 697.785 are in addition to and not exclusive of any other remedies provided by law. [1959 c.635 §35]

697.790 Advertising of debt consolidation by unlicensed persons prohibited; exception. (1) Except for licensed debt consolidating agencies and persons licensed or otherwise authorized by statute to engage in the business of lending money, no person shall advertise the availability or practice of consolidation of debts, whether such consolidation is by means of a loan to the debtor or otherwise.

(2) Nothing in subsection (1) of this section shall apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer or distributor of any newspaper, magazine, billboard or other advertising medium who publishes, prints or distributes such advertising in good faith

without knowledge of its unlawful character.

[1965 c 190 §2]

697.810 License denial procedure; promulgation, review of rules and orders.

(1) Where the commissioner proposes to refuse to issue or renew a license, or proposes to revoke or suspend a license, opportunity for hearing shall be accorded as provided in ORS 183.310 to 183.550.

(2) Promulgation of rules, conduct of hearings, issuance of orders and judicial review of rules and orders shall be as provided in ORS 183.310 to 183.550. [1971 c 734 §163]

Note: 697.810 was enacted into law by the Legislative Assembly and was added to and made a part of ORS chapter 697 but was not added to and made a part of 697.010 to 697.470, 697.610 to 697.655 or 697.660 to 697.785 by legislative action. See the preface to Oregon Revised Statutes for further explanation.

697.820 Civil penalty; for debt consolidating agencies. (1) Any person who violates any provision of ORS 697.610 to 697.790, any lawful rule or final order of the commissioner, or any final judgment or decree made by any court upon application of the commissioner, shall forfeit and pay to the Real Estate Account of the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner of not more than \$500 for each offense, or \$1,000 for the aggregate for all such offenses within any three-month period. In the case of individual licensees, operators and solicitors, the civil penalty shall not be more than \$100 for each offense or \$500 in the aggregate for all offenses within any three-month period. Each violation shall be deemed a separate offense.

(2) In addition to the civil penalty set forth in subsection (1) of this section, any person who violates any provision of ORS 697.610 to 697.790, any lawful rule or final order of the commissioner or any final judgment or decree made by a court upon application to the commissioner, may be required to forfeit and pay to the Real Estate Account of the General Fund of the State Treasury a civil penalty in an amount determined by the commissioner but not to exceed the amount by which such person profited in any transaction which violates any such provision, rule, order, judgment or decree.

(3) Such civil penalty may be recovered in an action brought thereon in the name of the State of Oregon in any court of appropriate jurisdiction.

(4) In any court action with respect to a civil penalty, the court may review the penalty as to both liability and reasonableness of amount.

(5) The provisions of this section are in addition to and not in lieu of any other enforcement provision contained in ORS 697.610 to 697.790.

(6) The commissioner may mitigate any penalty provided for in this section on such terms as the commissioner considers proper upon a finding that the circumstances are such that it would be in the interest of justice to mitigate this penalty.

(7) Such penalty shall not be imposed except by order following complaint as provided in ORS 183.415 to 183.425 and 183.440 to 183.460, 183.470 and 183.480. Such proceeding may only be commenced within two years following discovery of the violation complained of by the commissioner. [1973 c 548 §2, 1977 c 185 §14; 1981 c 85 §12]

697.830 Disposition of fees, fines and penalties. All fees, fines and penalties provided for in ORS 697.610 to 697.990 that relate to the regulation of debt consolidating agencies by the Real Estate Commissioner shall be deposited in the Real Estate Account as established under ORS 696.490. [1977 c 41 §6, 1981 c 85 §13]

PENALTIES

697.990 Penalties. (1) Violation of ORS 697.015 or of any of the provisions of ORS 697.610 to 697.830 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 ORS 697.015 or of any provision of ORS 697.610 to 697.830 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 ORS 697.015 or of any provision of ORS 697.610 to 697.830 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, 1981 c 85 §14]

697.992 Jurisdiction of courts. Justice courts and district courts have concurrent jurisdiction with circuit courts in all criminal

prosecutions for violation of ORS 697.025, 697.610 to 697.655 and 697.660 to 697.785.

[Derived from 697 480 (1957 Replacement Part) and 1959 c 635 §36]

