Chapter 9

1987 REPLACEMENT PART

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OREGON STATE BAR

9.005 Definitions for ORS 9.010 to 9.665. As used in ORS 9.010 to 9.665, unless the context or subject matter requires otherwise:

(1) "Attorney" and "member" mean a member of the bar.

(2) "Oregon State Bar," "state bar" and "bar" mean the Oregon State Bar created by the State Bar Act set forth in ORS 9.005 to 9.665.

(3) "Board" and "board of governors" mean the board of governors of the bar.

(4) "Executive director" means the chief administrative employe of the bar, appointed by the board. The executive director may, but need not be, a member of the bar; and the executive director shall serve at the board's discretion and shall perform such duties as the board shall prescribe.

(5) "Governor" means a member of the board of governors of the bar.

(6) "Rules of procedure" means the rules of procedure relative to admission, discipline, resignation and reinstatement of members of the bar adopted by the board and approved by the Supreme Court. [1975 c.641 §2, 1979 c 252 §14]

9.010 Status of attorney and Oregon State Bar; applicability of statutes. (1) An attorney, admitted to practice in this state, is an officer of the court; and the Oregon State Bar is a public corporation and an instrumentality of the Judicial Department of the government of the State of Oregon and is authorized to carry out the provisions of ORS 9.030 to 9.755. The bar is subject to the following statutes applicable to public bodies: ORS 30.210 to 30.312, 30.390, 30.400, the Oregon Rules of Civil Procedure, ORS 192.410 to 192.505, 192.610 to 192.690, 244.010 to 244.040, 297.110 to 297.230, ORS chapters 307, 308 and 311, ORS 731.036 and 737.346. However, the bar is not subject to any other statute applicable to a state agency, department, board or commission or public body unless such statute expressly provides that it is applicable to the Oregon State Bar.

(2) The Oregon State Bar has perpetual succession and a seal, and it may sue and be sued. Notwithstanding the provisions of ORS 273.195 to 273.216 and ORS chapters 278 and 279, it may, in its own name, for the purpose of carrying into effect and promoting its objectives, enter into contracts and lease, acquire, hold, own, encumber, insure, sell, replace, deal in and with and dispose of real and personal property. ORS 279.011 to 279.067, 279.310 to 279.575, 279.710 and 279.711 shall not apply to any contract for purchase, lease or sale of personal property, public improvements or services entered into before, on or after July 9, 1985.

(3) No obligation of any kind incurred or created under this section shall be, or be considered, an indebtedness or obligation of the State of Oregon. [Amended by 1955 c.463 §1; 1965 c.461 §1; 1985 c.446 §1]

9.020 [Amended by 1971 c 103 §1; repealed by 1973 c.114 §5]

9.025 Board of governors; number; eligibility; term; effect of membership. (1) The Oregon State Bar shall be governed by a board of governors consisting of 15 members. Twelve of the members shall be active members of the Oregon State Bar, who on appointment, on nomination, on election and during the full term for which the member was appointed or elected, maintain the principal office of law practice in the region of this state in which the active members of the Oregon State Bar eligible to vote in the election at which the member was elected maintain their principal offices. Three of the members shall be appointed by the board of governors from among the public. They shall be residents of this state and shall not be active or inactive members of the Oregon State Bar.

(2) For the purpose of eligibility for nomination and to vote in the election of a member of the board of governors who is an elective member, and for appointment to the board of governors, the State of Oregon is divided into six regions, constituted as follows:

(a) Region One—Baker, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Klamath, Lake, Malheur, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco and Wheeler Counties.

(b) Region Two—Lane County.

(c) Region Three—Coos, Curry, Douglas, Jackson and Josephine Counties.

(d) Region Four—Benton, Clatsop, Columbia, Lincoln, Polk, Tillamook, Washington and Yamhill Counties.

(e) Region Five—Multnomah County.

(f) Region Six—Clackamas, Linn and Marion Counties.

(3) There shall be elected to the board of governors, for a term of three years, by the active members of the Oregon State Bar who maintain their principal offices in:

(a) Region One—One member in 1975 and in each third year thereafter.

(b) Region Two—One member in 1973 and in each third year thereafter.

(c) Region Three—One member in 1975 and in each third year thereafter.

(d) Region Four—One member in 1974 and in each third year thereafter.

(e) Region Five—Two members in 1973 and in each year thereafter.

(f) Region Six—One member in 1973 and in each year thereafter, except in 1975 and in each third year thereafter.

(4) No judge of a municipal, state or federal court or any other full-time judicial officer, shall be eligible for appointment or election to the board of governors.

(5) The term of any member of the board of governors shall terminate on the date of the death or resignation of the member, or if the member is required to be a member of the Oregon State Bar, the term terminates on the date:

(a) Of the termination of active membership in the Oregon State Bar by the member for any reason;

(b) When the member discontinues to maintain the principal office of practice in the region in which it was maintained at the time of the appointment or election of the member; or

(c) When the member assumes office as a judge of a municipal, state or federal court, or fills a full-time judicial office.

(6) No member of the board of governors shall be eligible, during the term of office, for service pro tempore as a judge of any municipal, state or federal court. [1973 c.114 §1, 1981 c.193 §3]

9.030 Voting rights; eligibility of members for board. Members shall vote in and be eligible for nomination and election to the board of governors from the region in which they maintain their principal offices. [Amended by 1971 c.103 §2; 1973 c 114 §2]

9.040 Election of governors; vacancies. (1) The election of governors shall be held on the third Monday of August of each year. Nomination shall be by petition signed by at least 10 members entitled to vote for such nominee. Election shall be by ballot. Nominating petitions shall be filed with the executive director of the bar at least 30 days before the election. The executive director shall mail ballots, containing the nominations for the office of governor in each region, to every eligible active member in such region, on or before the first day of August preceding such election. Ballots shall be deposited in person or by mail with the executive director on or before the day of the election. The executive director, with two assistants to be selected by the executive director, shall canvass the votes and record the result thereof. The candidate in each region receiving the highest vote shall be declared elected, except that, in region five, the candidate receiving the highest vote and the candidate receiving the next highest vote shall be declared elected. The balloting shall be so conducted that only eligible active members can vote, and the secrecy of the ballot shall be preserved.

(2) A vacancy in the office of elective member of the board of governors that occurs more than 18 months before the expiration of the term shall be filled for the remainder of the term by a governor elected at a special election held in the manner provided in subsection (1) of this section as soon as possible after the occurrence of the vacancy. The vacancy may be filled for the period between the occurrence of the vacancy and the special election by a governor appointed by the board. A vacancy in the office of elective member that occurs 18 months or less before the expiration of the term shall be filled for the remainder of the term by a governor appointed by the board.

(3) A vacancy in the office of public member of the board of governors shall be filled for the remainder of the term by a governor appointed by the board. [Amended by 1973 c 114 §3, 1979 c.252 §15, 1985 c.512 §1]

9.050 Recall of governors. On petition signed by 25 percent of the members in any region for the recall of any governor elected from that region, the executive director shall serve notice forthwith on such governor of the filing of the petition; and, if the governor does not resign within 10 days from the date of such service, the executive director shall mail ballots to each active member of the bar within the region eligible to vote, submitting the question whether such governor shall be recalled. If a majority of the members voting at such election vote in favor of the recall, then the governor shall be recalled. [Amended by 1973 c.114 §4, 1979 c.252 §16]

9.060 Officers; election; vacancies; compensation. A president, vice president, secretary and treasurer shall be elected by the governors each year immediately following the annual election of governors and before the newly elected governors have qualified. The president and vice president shall be elected from among the board members. All officers shall continue in office until their successors are elected and qualify. Vacancies in any of the offices shall be filled by the board by appointment for the remainder of the term. The secretary, the treasurer and such other

assistants as the board may require, may be selected from within or without the membership of the board, and shall be paid such compensation as the board shall determine. All officers shall take office immediately upon their election. [Amended by 1985 c.512 §2]

9.070 Duties of officers; bonds of secretary and treasurer; deposit and disbursement of fees. (1) The president shall preside at all meetings of the state bar and of the board of governors, and in the absence or inability to act of the president, the vice president shall preside. However, the board of governors may designate another member of the bar to preside at meetings of the state bar. Other duties of the president and vice president and the duties of the secretary and treasurer shall be such as the board of governors may prescribe.

(2) The secretary and the treasurer shall each give bond, with some qualified surety company as surety, in such amount as the board shall fix, conditioned for the faithful accounting for all money received by them in their official capacities.

(3) All fees shall be paid into the treasury of the state bar, and when so paid shall become part of its funds and shall be disbursed only on order of the board of governors. [Amended by 1981 c.193 §4]

9.080 Duties of board; professional liability fund; quorum; status of employes of bar; fee for registration of professional corporation. (1) The state bar shall be governed by the board of governors, except as provided in ORS 9.130. The board is charged with the executive functions of the state bar and shall at all times direct its power to the advancement of the science of jurisprudence and the improvement of the administration of justice. It shall have the authority to adopt, alter, amend and repeal bylaws and to adopt new bylaws containing provisions for the regulation and management of the affairs of the state bar not inconsistent with law.

(2)(a) The board shall have the authority to require all active members of the state bar engaged in the private practice of law whose principal offices are in Oregon to carry professional liability insurance and shall be empowered, either by itself or in conjunction with other bar organizations, to do whatever is necessary and convenient to implement this provision, including the authority to own, organize and sponsor any insurance organization authorized under the laws of the State of Oregon and to establish a lawyer's professional liability fund. This fund shall pay, on behalf of active members of the state bar engaged in the private practice of law whose principal offices are in Oregon, all sums as may be provided under such plan which any such member shall become legally obligated to pay as money damages because of any claim made against such member as a result of any act or omission of such member in rendering or failing to render professional services for others in the member's capacity as an attorney or caused by any other person for whose acts or omissions the member is legally responsible. The board shall have the authority to assess each active member of the state bar engaged in the private practice of law whose principal office is in Oregon for contributions to such fund, to establish definitions of coverage to be provided by such fund and to retain or employ legal counsel to represent such fund and defend and control the defense against any covered claim made against such member. Any fund so established shall not be subject to the Insurance Code of the State of Oregon. Records of a claim against the fund are exempt from disclosure under ORS 192.410 to 192.505.

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

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

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

(4) Except as provided in this subsection, an employe of the state bar shall not be considered

an "employe" as the term is defined in the public employes' retirement laws. However, an employe of the state bar may, at the option of the employe, for the purpose of becoming a member of the Public Employes' Retirement System, be considered an "employe" as the term is defined in the public employes' retirement laws. The option, once exercised by written notification directed to the Public Employes' Retirement Board, may not be revoked subsequently, except as may otherwise be provided by law. Upon receipt of such notification by the Public Employes' Retirement Board, an employe of the state bar who would otherwise, but for the exemption provided in this subsection, be considered an "employe," as the term is defined in the public employes' retirement laws, shall be so considered. The state bar and its employes shall be exempt from the provisions of the State Personnel Relations Law. No member of the state bar shall be considered an "employe" as the term is defined in the public employes' retirement laws, the unemployment compensation laws and the State Personnel Relations Law solely by reason of membership in the state bar.

(5) The fee for registration of a professional corporation organized to provide legal services and the fee for annual renewal of a certificate of registration shall be established by the board each year. In establishing such fees, the board shall consider and be guided by the total anticipated cost to the state bar of issuing, renewing and amending certificates of registration. [Amended by 1955 c 463 §2, 1975 c 641 §3, 1977 c 527 §1; 1979 c 508 §1, 1983 c 128 §2, 1985 c 486 §1]

9.090 Appropriation and disbursement of funds. The board may make appropriations and disbursements from the funds of the bar and pay all necessary expenses. [Amended by 1969 c 314 §5, 1979 c 252 §17]

9.100 Statement of receipts and expenditures. The board shall have prepared annually an itemized statement showing the total amount of receipts and expenditures of the state bar for the 12 months preceding. Such statement shall be certified promptly under oath by the president and treasurer to the Chief Justice of the Supreme Court.

9.110 Rules; special meetings; quorum at bar meetings. The board may formulate and declare rules necessary or expedient for carrying out the functions of the state bar and shall fix the manner and time of calling special meetings of the state bar. The board shall, however, call a special meeting of the state bar when so requested in writing by no fewer than 50 voting members from each of the regions specified in ORS 9.025. A quorum at any regular or special meeting of the state bar shall consist of 200 active members. [Amended by 1975 c.641 §4, 1981 c.193 §5]

9.120 Annual meetings of bar; reports and recommendations. An annual meeting of the bar shall be held at a time and place fixed by the board of governors. At the annual meeting, reports of the proceedings by the board since the last annual meeting, reports of other officers and committees and recommendations of the board shall be received.

9.130 Authority of bar members at meetings and on questions referred. (1)(a) Except as otherwise provided in paragraph (b) of this subsection and subsection (5) of this section, at any meeting of the state bar, the active members present, by a majority vote, may modify or rescind any action or decision of the board of governors and also may instruct the board as to future action, and the board shall be bound by any such action of the bar.

(b) A proposal which is adopted or defeated at any meeting of the bar shall be submitted to a vote of the membership conducted by mail ballot if, within 60 days after the vote at the meeting, it is requested by the following:

(A) By the board of governors on its own motion or, in its discretion, when desired by a section or committee; or

(B) By written petition of five percent of the membership or, if there has been a division of the house with respect to the proposal at the meeting of members, by written petition of a number of members of the bar exceeding the votes on the prevailing side at the meeting.

(2) The board of governors may, on its own motion, and at any time, refer to the members of the bar by mail ballot, any question or measure deemed by the board to be appropriate for submission to the members.

(3) By written initiative petition, signed by not less than five percent of the members of the bar, any measure appropriate for consideration by the members may be submitted to a vote of the membership conducted by mail ballot. Such initiative petition shall contain the full text of the measure so proposed.

(4) The board of governors shall cause to be conducted any mail ballots called for by subsection (1), (2) or (3) of this section pursuant to bylaws or rules and regulations adopted by the board of governors for the conduct of such balloting. Any request or petition for a vote of the membership submitted pursuant to this section shall be filed with the executive director of the bar.

(5) The right of the bar to direct, modify or rescind an act of the board shall not include power to invalidate payments previously made under the direction of the board, shall not include power to direct, modify or rescind any assessment by the board for contributions to a professional liability fund under ORS 9.080 (2), and shall not apply to those powers of the board which are subject to the control or approval of or review by the Supreme Court, except as provided in ORS 9.490. [Amended by 1979 c 508 §2, 1981 c 193 §2; 1983 c 373 §1]

PRACTICE OF LAW; MEMBERSHIP IN THE BAR

9.160 Practice of law by persons other than active members. Except for the right reserved to litigants by ORS 9.320 to prosecute or defend a cause in person, no person shall practice law or represent that person as qualified to practice law unless that person is an active member of the Oregon State Bar.

9.162 Definitions for ORS 9.162 to 9.166. As used in ORS 9.162 to 9.166 and 9.280, unless the context or subject matter requires otherwise:

(1) "Person" means a human being and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(2) "Restitution" means full, partial or nominal payment of pecuniary damages to a victim.

(3) "Victim" means any person who the court determines has suffered pecuniary damages as a result of any other person's violation of ORS 9.160. [1987 c 860 §2]

9.164 Investigation of alleged violation of ORS 9.160. Upon written complaint of any person or upon its own initiative, the Board of Governors of the Oregon State Bar shall investigate any alleged violation of ORS 9.160. [1987 c.860 §3]

9.166 Enjoining practicing law without a license; restitution to victim; certain real estate activities not practice of law. (1) If the board has reason to believe that a person is practicing law without a license, the board may maintain a suit for injunctive relief in the name of the Oregon State Bar against any person violating ORS 9.160. The court shall enjoin any person violating ORS 9.160 from practicing law without a license. Any person who has been so enjoined may be punished for contempt by the court issuing the injunction. An injunction may be issued without proof of actual damage sustained by any person. The court may also order restitution to any victim of any person violating ORS 9.160. The prevailing party may recover its costs and attorney fees in any suit for injunctive relief brought under this section in which the board is the plaintiff.

(2) A person licensed under ORS 696.025 acting in the scope of the person's license to arrange a real estate transaction, including the sale, purchase, exchange, option or lease coupled with an option to purchase, lease for a term of one year or longer or rental of real property, is not engaged in the practice of law in violation of ORS 9.160. [1987 c 860 §4]

9.180 Classes of membership. All persons admitted to practice law in this state thereby shall become active members of the bar. Every member shall be an active member unless, at the member's request, or for reasons prescribed by statute, the rules of the Supreme Court, or the rules of procedure, the member is enrolled as an inactive member. An inactive member may, on compliance with the rules of the Supreme Court and the rules of procedure and payment of all required fees, again become an active member. Inactive members shall not hold office or vote, but they shall have such other privileges as the board may provide. [Amended by 1961 c 499 §1, 1979 c 252 §18]

9.190 [Amended by 1957 c.271 §1, 1961 c 138 §1, part renumbered 9 200 (2); repealed by 1969 c.602 §1 (9.191 enacted in lieu of 9.190)]

9.191 Annual membership fees; professional liability assessments. (1) Except as provided in subsection (2) of this section, the annual membership fees to be paid by members of the state bar on or before February 1 of each year shall be established by the board, and notice thereof shall be published and distributed to the membership not later than 20 days prior to the annual meeting of the members in the preceding year. Any increase in annual membership fees over the amount established for the preceding year must be approved by a majority of members voting thereon at the annual meeting of the members.

(2) The annual membership fees for the year of admission to be paid by persons admitted to practice law in this state after February 1 of that year shall be established by the board.

(3) In establishing annual membership fees, the board shall consider and be guided by the anticipated financial needs of the state bar for the year for which the fees are established, time periods of membership and active or inactive status of members. Annual membership fees may

include any amount assessed under any plan for professional liability insurance for active members engaged in the private practice of law whose principal offices are in Oregon as provided in ORS 9.080 (2). No annual membership fees shall be required or assessed by the board for members who have been admitted to practice law in Oregon for 50 years or more except that such member shall be required to pay any amount assessed under any plan for professional liability insurance if such member is engaged in the private practice of law whose principal office is in Oregon. [1969 c 602 §2 (enacted in lieu of 9.190); 1973 c.21 §1; 1975 c.641 §5; 1977 c 527 §2; 1979 c.508 §3; 1985 c.486 §2; 1985 c.512 §3]

9.200 Effect of failure to pay membership fees; reinstatement. (1) Any member in default in payment of membership fees established under ORS 9.191 (1) for a period of 90 days, or any person in default in payment of membership fees established under ORS 9.191 (2) for a period of 30 days after admission or as otherwise provided by the board, or any member in default in payment of assessed contributions to a professional liability fund under ORS 9.080 (2) for a period of 30 days, shall, after 60 days' written notice of the delinquency, be suspended from membership in the bar. The notice of delinquency shall be sent by the executive director, by registered or certified mail, to the member in default at the last-known post-office address of the member. Failure to pay the fees or contributions within 60 days after the date of the deposit of the notice in the post office shall automatically suspend the delinquent member. The names of all members suspended from membership for nonpayment of fees or contributions shall be certified by the executive director to the State Court Administrator and to each of the judges of the Court of Appeals, circuit, tax and district courts of the state.

(2) An active member delinquent in the payment of such fees or contributions shall not be entitled to vote.

(3) A member suspended for delinquency in payment of such fees or contributions shall be reinstated only on compliance with the rules of the Supreme Court and the rules of procedure and payment of all required fees or contributions. [Amended by 1957 c.271 §1; 1961 c 499 §2; subsection (2) formerly part of 9.190; 1979 c 508 §4a]

9.210 Board of bar examiners; fees of applicants for admission to bar. The Supreme Court shall appoint 12 members of the Oregon State Bar to a board of bar examiners. The Supreme Court shall also appoint two public members to the board who are not active or inactive members of the Oregon State Bar. The board shall examine applicants and recommend to the Supreme Court for admission to practice law those who fulfill the requirements prescribed by law and the rules of the Supreme Court. With the approval of the Supreme Court, the board may fix and collect fees to be paid by applicants for admission, which fees shall be paid into the treasury of the bar. [Amended by 1979 c.252 §20, 1981 c.193 §6]

9.220 General requirements for admission. An applicant for admission as attorney must apply to the Supreme Court and show that the applicant:

(1) Is at least 18 years old, which proof may be made by the applicant's affidavit.

(2)(a) Is a person of good moral character.

(b) For purposes of this section and ORS 9.025, 9.070, 9.110, 9.130, 9.210, 9.250, 9.527 and 9.545, the lack of "good moral character" may be established by reference to acts or conduct that reflect moral turpitude or to acts or conduct which would cause a reasonable person to have substantial doubts about the individual's honesty, fairness and respect for the rights of others and for the laws of the state and the nation. The conduct or acts in question should be rationally connected to the applicant's fitness to practice law.

(3) Has the requisite learning and ability, which must be shown by the examination of the applicant, by the judges, or under their direction, in open court, at the term at which the application is made, except as provided in ORS 9.210. However, no rule shall establish any maximum on the number of times an applicant may apply for and take the bar examination whenever presented if the reason for refusing admission to practice law is failure to pass the bar examination. [Amended by 1973 c 827 §2; 1981 c 193 §7; 1983 c 373 §2, 1985 c.599 §1]

9.230 [Repealed by 1981 c.193 §12]

9.240 Appearance of attorneys licensed in other jurisdictions. An attorney of the highest court of record in any other state or country may appear, if associated with an active member of the Oregon State Bar, as counsel for a party in a particular action, suit or proceeding then pending in court, or before a judicial officer of this state. [Amended by 1961 c.499 §3]

9.250 Oath of qualified applicant; order for admission. If an applicant for admission as an attorney is found qualified, the court shall administer an oath to the applicant, that in the practice of law the applicant will support the

Constitution and laws of the United States and of this state, and be of faithful and honest demeanor in office. The court shall then direct an order to be entered to the effect that the applicant is a resident of this state, of the age of 18 years, of good moral character, and possesses the requisite learning and ability to practice as an attorney in all the courts of this state, and has taken the oath of office. Upon the entry of the order, the applicant is entitled to practice as such attorney. [Amended by 1973 c.827 §3, 1981 c.193 §8]

9.260 Resignation of attorney. An attorney may, at any time, file in the office of the executive director a written resignation. After filing a resignation, the attorney is not entitled to the rights nor subject to the disabilities or prohibitions incident to that relation, except that the attorney is still subject to the power of the court in respect to matters arising prior to the resignation of the attorney. [Amended by 1953 c 604 §1; 1979 c 252 §21]

9.270 Forwarding copy of resignation to State Court Administrator; readmission to practice. The executive director shall immediately forward a copy thereof to the State Court Administrator, who shall file it in the office of the State Court Administrator. An attorney who has resigned may be readmitted to practice only on compliance with the rules of the Supreme Court and rules of procedure. [Amended by 1953 c.604 §1, 1961 c 499 §4, 1971 c.193 §17; 1979 c 252 §22]

9.280 Prohibition on acting as immigration consultant; definitions; exception. (1) It shall be a violation of ORS 9.160 for any person to engage in the business or act in the capacity of an immigration consultant in this state, for compensation, unless the person is an active member of the Oregon State Bar.

(2) As used in this section, unless the context or subject matter requires otherwise:

(a) "Immigration consultant" means any person who gives advice on an immigration matter, including but not limited to drafting an application, brief, document, petition or other paper or completing a form provided by a federal or state agency in an immigration matter.

(b) "Immigration matter" means any proceeding, filing or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Immigration and Naturalization Service, the United States Department of State or the United States Department of Labor.

(3) This section does not apply to any person or qualified designated entity authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Immigration and Naturalization Service. [1987 c.860 §5]

Note: 9.280 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 9 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ATTORNEY AND CLIENT RELATIONSHIP

9.310 Attorney defined; counsel. An attorney is a person authorized to represent a party in the written proceedings in any action, suit or proceeding, in any stage thereof. An attorney, other than the one who represents the party in the written proceedings, may also represent a party in court, or before a judicial officer, in which case the attorney is known as counsel, and the authority of the attorney is limited to the matters that transpire in the court or before such officer at the time.

9.320 Necessity for employment of attorney; effect of employment. Any action, suit, or proceeding may be prosecuted or defended by a party in person, or by attorney, except that the state or a corporation appears by attorney in all cases, unless otherwise specifically provided by law. Where a party appears by attorney, the written proceedings must be in the name of the attorney, who is the sole representative of the client of the attorney as between the client and the adverse party, except as provided in ORS 9.310. [Amended by 1975 c 451 §171]

9.330 Authority of an attorney. An attorney has authority to bind the attorney's client in any of the proceedings in an action, suit or proceeding, by the attorney and client agreement, filed with the clerk or entered in the appropriate record of the court. The attorney also has authority to receive money or property claimed by the client in an action, suit or proceeding, during the pendency thereof, or within three years after judgment or decree, and upon the payment or delivery thereof to discharge the claim or acknowledge satisfaction of the judgment or decree. This section does not prevent a party from employing a new attorney to issue execution upon a judgment or decree, or to take other proceedings prescribed by law for its enforcement, and when the party does so, the authority of the former attorney ceases. [Amended by 1985 c.540 §23]

9.340 Challenge by party of attorney's authority to appear for party. If it is alleged

by a party for whom an attorney appears that the attorney does so without authority, and the allegation is verified by the affidavit of the party, the court may, if it finds the allegation true, at any stage of the proceedings relieve the party for whom the attorney has assumed to appear from the consequences of the attorney's acts.

9.350 Challenge of attorney's authority to appear for adverse party. The court or judge thereof may, on motion of either party and on showing reasonable grounds therefor, require the attorney for an adverse party to prove the authority under which the attorney appears, and until the attorney does so, may stay all proceedings by the attorney on behalf of the party for whom the attorney assumes to appear.

9.360 Compelling delivery by attorney of money or papers. When an attorney refuses to deliver over money or papers to a person from whom or for whom the attorney has received them in the course of professional employment, the attorney may be required by an order of the court in which a judicial proceeding was prosecuted or defended, or if none were prosecuted or defended, then by an order of the circuit court or judge thereof for the county where such attorney resides or may be found, to do so within a specified time, or show cause why the attorney should not be punished for a contempt.

9.370 Compelling delivery when attorney claims lien. If an attorney claims a lien, under the provisions of ORS 87.440, upon the money or papers subject to delivery under ORS 9.360, the court shall:

(1) Impose, as a condition of making the order, the requirement that the client give security, in form and amount to be directed, to satisfy the lien when determined in an action or suit; or

(2) Summarily inquire into the facts on which the claim of a lien is founded, and determine the same; or

(3) Direct the trial of the controversy by a jury, or refer it, and upon the verdict or report, determine the same as in other cases. [Amended by 1975 c.648 §70]

9.380 Mode of changing attorneys. The attorney in an action, suit or proceeding may be changed, or the relationship of attorney and client terminated, as follows:

(1) Before judgment, decree or final determination, upon the consent of the attorney filed with the clerk or entered in the appropriate record of the court; or

(2) At any time, upon the order of the court or judge thereof, based on the application of the client or the attorney, for good and sufficient cause. [Amended by 1985 c.540 §24]

9.390 Notice of change. When an attorney is changed as provided in ORS 9.380, written notice of the change and of the substitution of a new attorney, or of the appearance of the party in person, shall be given to the adverse party. Until then the adverse party is bound to recognize the former attorney.

9.400 Contingent fee agreement. (1) In any civil action arising out of bodily injury, death or property damage, including claims for emotional injury or distress, loss of care, comfort, companionship and society, and loss of consortium, if an attorney for a plaintiff in respect to any civil action enters into an agreement with the plaintiff whereby the attorney receives as a fee a percentage of the amount of any settlement or judgment awarded to the plaintiff:

(a) The contingent fee agreement shall be written in plain and simple language reasonably believed to be understandable by the plaintiff.

(b) The attorney shall explain the terms and conditions of the agreement in compliance with a model explanation in plain and simple language prepared by the Oregon State Bar a reasonable time before the agreement is signed.

(c) The contingent fee agreements must contain a provision allowing the plaintiff to rescind the agreement within 24 hours after signing upon written notice to the attorney.

(2) Any contingent fee agreement entered into on or after the operative date of this Act [September 26, 1987] that does not comply with the requirements of subsection (1) of this section is voidable. [1987 c 774 §8]

Note: 9.400 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 9 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: The Legislative Counsel has not, pursuant to 173 160, undertaken to substitute specific ORS references for the words "this Act" in ORS chapter 9 Chapter 774, Oregon Laws 1987, enacted into law and amended the ORS sections which may be found by referring to the 1987 Comparative Section Table located in Volume 6A of Oregon Revised Statutes

DISPUTE RESOLUTION ADVISORY COUNCIL

Note: Sections 1 to 6, chapter 807, Oregon Laws 1987, provide

Sec. 1. The Legislative Assembly finds and declares the following

(1) The resolution of many disputes can be unnecessarily costly, time consuming and complex when achieved through formal court proceedings where the parties are adversaries and are subjected to formalized procedures.

(2) To achieve more effective and efficient dispute resolution in a complex society, greater use of alternatives to the courts, such as mediation, conciliation and arbitration should be encouraged. Community dispute resolution programs and increased use of other alternatives to the formal judicial system may offer less threatening and more flexible forums for persons of all ethnic, racial and socioeconomic backgrounds. These alternatives, among other things, can assist in the resolution of disputes between neighbors, some domestic disputes, consumer-merchant disputes and other kinds of disputes in which the parties have continuing relationships. A noncoercive dispute resolution forum in the community may also provide a valuable prevention and early intervention problem-solving resource to the community.

(3) Local resources, including volunteers reflective of the diversity of the community and available public buildings should be utilized to achieve more accessible, cost-effective resolutions of disputes. Additional financial resources are needed to expand, stabilize and improve existing programs and entities which sponsor alternative dispute resolution.

(4) Courts, prosecuting authorities, law enforcement agencies and administrative agencies should encourage greater use of alternative dispute resolution techniques whenever the administration of justice will be improved.

(5) In redrafting or updating any of the official pleading forms used in the trial courts of this state, courts should consider the inclusion of information on options for alternative dispute resolution. [1987 c.807 §1]

Sec. 2. It is the intent of the Legislative Assembly to permit counties to accomplish all of the following:

(1) Encouragement and support of the development and use of alternative dispute resolution techniques.

(2) Encouragement and support of community participation in the development, administration and oversight of local programs designed to facilitate the informal resolution of disputes among members of the community

(3) Development of structures for dispute resolution that may serve as models for resolution programs in other communities

(4) Education of communities with regard to the availability and benefits of alternative dispute resolution techniques.

(5) Encouragement of courts, prosecuting authorities, public defenders, law enforcement agencies and administrative agencies to work in cooperation with and to make referrals to dispute resolution programs. [1987 c.807 §2]

Sec. 3. As used in this Act [chapter 807, Oregon Laws 1987]:

(1) "Advisory council" means the Dispute Resolution Advisory Council.

(2) "Dispute resolution" includes, but is not limited to, mediation, conciliation and arbitration. [1987 c 807 §3]

Sec. 4. (1) There is created a Dispute Resolution Advisory Council consisting of seven persons, five of whom shall be appointed by the Governor. One member shall be appointed by the President of the Senate and one member shall be appointed by the Speaker of the House of Representatives.

(2) At least four of the persons appointed to the advisory council shall be active members of the Oregon State Bar, and at least four persons appointed to the advisory council shall have experience and understanding of dispute resolution techniques. The members of the advisory council shall reflect the racial, ethnic, sexual and geographic diversity of the state

(3) The advisory council shall establish guidelines to effectuate the purposes of this Act, including but not limited to, guidelines to be used for the recruitment and training of persons conducting dispute resolution, and provisions for periodic monitoring and evaluation of dispute resolution programs

(4) The advisory council shall establish guidelines to evaluate the performance of dispute resolution programs which shall include analysis of potential court caseload reduction, assessment of cost saving to the state, examination of the efficacy of a program and the feasibility of operation of a state-wide program of grants. [1987 c.807 §4]

Sec. 5. (1) The office of the Legislative Counsel shall, subject to the approval of the Legislative Counsel, provide necessary services and support to the Dispute Resolution Advisory Council.

(2) Members of the Dispute Resolution Advisory Council who are members of the Legislative Assembly shall be entitled to receive per diem and expenses under ORS 171 072, payable from funds appropriated to the Legislative Assembly. Other members shall receive no per diem or expense reimbursements.

(3) The expenses incurred by the Dispute Resolution Advisory Council shall be paid from funds appropriated to the Legislative Counsel Committee Such expenses shall not exceed $1,000. [1987 c.807 §5]

Sec. 6. The Dispute Resolution Advisory Council shall report to the Sixty-fifth Legislative Assembly by January 31, 1989, on its guidelines adopted under section 4 of this Act and shall include its recommendations for implementation of this Act [1987 c 807 §6]

PROFESSIONAL CONDUCT

9.460 Duties of attorneys. An attorney shall:

(1) Support the Constitution and laws of the United States and of this state;

(2) Maintain the respect due to courts and judicial officers;

(3) Counsel or maintain such actions, suits, or proceedings or defenses only as may appear to the attorney legal and just, except the defense of a person charged with a public offense;

(4) Employ, for the purpose of maintaining the causes confided to the attorney, such means only as are consistent with truth, and never seek to mislead the court or jury by any artifice or false statement of law or fact;

(5) Maintain inviolate the confidence, and at every peril to the attorney, preserve the secrets of the clients of the attorney;

(6) Abstain from all offensive personality, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which the attorney is charged;

(7) Not encourage the commencement or continuance of an action, suit or proceeding from any motives of passion or interest; and,

(8) Never reject, for any personal consideration, the cause of the defenseless or the oppressed.

9.470 [Repealed by 1965 c 353 §2]

9.480 [Amended by 1965 c 353 §1, 1981 c 193 §9, renumbered 9 527]

9.490 Formulation of rules of professional conduct. The board of governors, with the approval of the state bar given at any regular or special meeting, shall formulate rules of professional conduct, and when such rules are adopted by the Supreme Court, shall have power to enforce the same. Such rules shall be binding upon all members of the bar.

PROHIBITED CONDUCT

9.500 Solicitation of personal injury business by nonlawyer. No person shall solicit within the state any business on account of a claim for personal injuries to any person, or solicit any litigation on account of personal injuries to any person within the state, and any contract wherein any person not an attorney agrees to recover, either through litigation or otherwise, any damages for personal injuries to any person shall be void.

9.505 Payment for referring claims resulting from personal injury or death. No person shall offer or promise payment of money or other consideration, or accept any offer or promise of payment of money or other consideration, nor shall any person pay or accept money or other consideration, for referring to an attorney any claim for damage resulting from personal injury or death. [1961 c.561 §1]

9.510 Solicitation by attorneys. No attorney shall solicit business at factories, mills, hospitals or other places, or retain members of a firm or runners or solicitors for the purpose of obtaining business on account of personal injuries to any person, or for the purpose of bringing damage suits on account of personal injuries.

9.515 Referral of claims, suits or actions between attorneys; division of fees. (1) Nothing contained in ORS 9.505 shall prevent referral of claims, suits or actions between attorneys.

(2) The provisions of ORS 9.505 shall not prohibit the referral of claims, suits or actions between attorneys or the dividing of fees for legal services with another lawyer based upon a division of services or responsibility. [1961 c 561 §§2, 3]

9.520 Acceptance and prosecution of solicited claims. No attorney shall accept from a solicitor described in ORS 9.500 any claim for damages, or bring an action for damages on account of any claim obtained from such solicitor. Any agreement between an attorney and such solicitor regarding compensation to be paid to the attorney or solicitor is void.

9.525 [1975 c.641 §8, repealed by 1983 c 618 §1]

BAR DISCIPLINARY PROCEEDINGS

9.527 Grounds for disbarment, suspension or reprimand. The Supreme Court may disbar, suspend or reprimand a member of the bar whenever, upon proper proceedings for that purpose, it appears to the court that:

(1) The member has committed an act or carried on a course of conduct of such nature that, if the member were applying for admission to the bar, the application should be denied;

(2) The member has been convicted in any jurisdiction of an offense which is a misdemeanor involving moral turpitude or a felony under the laws of this state, or is punishable by death or imprisonment under the laws of the United States, in any of which cases the record of the conviction shall be conclusive evidence;

(3) The member has wilfully disobeyed an order of a court requiring the member to do or forbear an act connected with the legal profession;

(4) The member is guilty of wilful deceit or misconduct in the legal profession;

(5) The member is guilty of wilful violation of any of the provisions of ORS 9.460 or 9.510;

(6) The member is guilty of gross or repeated negligence or incompetence in the practice of law; or

(7) The member has refused an invitation for an informal interview with the board of governors or its designees under ORS 9.545. [Formerly 9.480]

9.529 Status of proceedings relating to discipline, admission or reinstatement. Bar proceedings relating to discipline, admission and reinstatement are neither civil nor criminal in nature. They are sui generis and within the inher-

ent power of the Supreme Court to control. The grounds for denying any applicant admission or reinstatement or for the discipline of attorneys set forth in this chapter are not intended to limit or alter the inherent power of the Supreme Court to deny any applicant admission or reinstatement to the bar or to discipline a member of the bar. [1983 c 618 §3]

9.530 [Repealed by 1965 c 353 §2]

9.532 Local professional responsibility committees; state professional responsibility board; powers; witnesses; subpenas; oaths. (1) The board of governors shall create local professional responsibility committees to investigate the conduct of attorneys. The composition and authority of local professional responsibility committees shall be as provided in the rules of procedure.

(2) The board of governors shall also create a state professional responsibility board to review the conduct of attorneys and to institute disciplinary proceedings against members of the bar. The composition and authority of the state professional responsibility board shall be as provided in the rules of procedure.

(3)(a) The state professional responsibility board and local professional responsibility committees shall have the authority to take evidence, administer oaths or affirmations, and issue subpenas to compel the attendance of witnesses, including the member being investigated, and the production of books, papers and documents pertaining to the matter under investigation.

(b) A witness in an investigation conducted by the state professional responsibility board or a local professional responsibility committee who testifies falsely, fails to appear when subpenaed, or fails to produce any books, papers or documents pursuant to subpena, shall be subject to the same orders and penalties to which a witness before a circuit court is subject. The state professional responsibility board or local professional responsibility committees may enforce any subpena issued pursuant to paragraph (a) of this subsection by application to any circuit court.

(c) Any member of the state professional responsibility board or a local professional responsibility committee may administer oaths or affirmations and issue any subpena provided for in paragraph (a) of this subsection. [1983 c.618 §4]

9.534 Disciplinary board; procedure before board; oaths; subpenas; hearing; record. (1) The Supreme Court shall appoint a disciplinary board to hear formal charges against members of the bar. The composition and authority of, and procedure before, the disciplinary board or panels thereof shall be as provided in the rules of procedure.

(2) A member, formally accused of misconduct by the bar, shall be given reasonable written notice of the charges against the member, a reasonable opportunity to defend against the charges, the right to be represented by counsel, and the right to examine and cross-examine witnesses. The member shall also have the right to appear and testify, and the right to the issuance of subpenas for attendance of witnesses and the production of books, papers or documents in the defense of the member.

(3) Rules of evidence and discovery in disciplinary proceedings shall be as provided in the rules of procedure.

(4)(a) The disciplinary board shall have the authority to take evidence, administer oaths or affirmations, and issue subpenas to compel the attendance of witnesses, including the accused member, and the production of books, papers and documents pertaining to the matter before the disciplinary board.

(b) A witness in a disciplinary proceeding who testifies falsely, fails to appear when subpenaed, or fails to produce any books, papers or documents pursuant to subpena, shall be subject to the same orders and penalties to which a witness before a circuit court is subject. Subpenas issued pursuant to paragraph (a) of this subsection may be enforced by application to any circuit court.

(c) Any member of the disciplinary board may administer oaths or affirmations and issue any subpena provided for in paragraph (a) of this subsection.

(5) The hearing before the disciplinary board shall be held in the county in which the member charged maintains an office for the practice of law, the county in which the member resides, or the county in which the offense is alleged to have been committed. With the consent of the member, the hearing may be held elsewhere in the state.

(6) A record of all hearings shall be made and preserved by the disciplinary board. [1983 c.618 §5]

9.535 [1975 c 641 §9, 1979 c 450 §1, repealed by 1983 c 618 §1]

9.536 Board decision; appeal to Supreme Court; review; costs. (1) Upon the conclusion of a hearing, the disciplinary board shall file with the Supreme Court Administrator a written decision in the matter. If the decision of

the disciplinary board finds the accused attorney has not committed the alleged wrongdoing or determines that the accused attorney should be disciplined by way of reprimand or suspension from the practice of law up to a period of 60 days, the bar or the accused, as the case may be, may seek review by the Supreme Court. Such review shall be a matter of right upon the request of either party. Otherwise, the decision of the disciplinary board shall be final. The procedure for seeking discretionary review and on review shall be as provided in the rules of procedure.

(2) If the decision of the disciplinary board is to suspend the accused attorney from the practice of law for a period of longer than 60 days or to disbar the accused attorney, the matter shall be reviewed by the Supreme Court. The procedure on review shall be as provided in the rules of procedure.

(3) When a matter is before the Supreme Court for review, the court shall consider the matter de novo and may adopt, modify or reject the decision of the disciplinary board in whole or in part and thereupon enter an appropriate order.

(4) The Supreme Court, or the disciplinary board in cases where its decision has become final, may award judgment in any bar proceeding for all or part of a party's actual and necessary costs and disbursements incurred. The procedures for recovery of such costs and disbursements shall be the same as in civil cases.

(5) The State Court Administrator shall enter any judgment for costs and disbursements in the records of the Supreme Court and shall forward a certified copy of the judgment to the clerk of the circuit court of the county in which the member or applicant resides or maintains an office for the practice of law or other business. If a judgment for costs and disbursements is entered against the bar, the State Court Administrator shall forward a certified copy of the judgment to the clerk of the circuit court of the county in which the bar maintains its principal place of business. On receipt of a certified copy of the judgment, the clerk of the circuit court shall file it and cause it to be entered in the circuit court register and docketed in the judgment docket. Such judgment shall thereafter have the same force and effect, may be enforced by execution in the same manner, may be renewed in the same manner and, upon payment, shall be satisfied in the same manner as other judgments entered in circuit court. [1983 c 618 §6, 1985 c 540 §25]

9.537 Civil immunity of witnesses; bar officials and employes. (1) Any person who has made a complaint to the bar concerning the conduct of an attorney, or who has given information or testimony in or relative to a proposed or pending admission, reinstatement or disciplinary proceeding shall be absolutely immune from civil liability for any such acts.

(2) The Oregon State Bar, its officers, the members of local professional responsibility committees, the state professional responsibility board, the board of bar examiners, the board of governors, the disciplinary board, and bar counsel, investigators and employes of the bar shall be absolutely immune from civil liability in the performance of their duties relative to proposed or pending admission, reinstatement or disciplinary proceedings. [1983 c.618 §7]

9.539 Application to admission and reinstatement proceedings. ORS 9.534 and 9.536 apply to admission and reinstatement proceedings to the extent provided in the rules of procedure. However, the Supreme Court shall review the decisions of the disciplinary board in all such matters. [1983 c 618 §8]

9.540 [Amended by 1961 c.499 §5, 1971 c.193 §18, repealed by 1973 c 490 §1 (9 541 enacted in lieu of 9.540)]

9.541 [1973 c 490 §2 (enacted in lieu of 9 540); repealed by 1975 c.641 §13]

9.542 Rules of board of governors. The board of governors, subject to the approval of the Supreme Court, may adopt rules of procedure relating to the investigation of the conduct of attorneys and applicants for admission and reinstatement to the bar, and relating to the conduct of admission, reinstatement and disciplinary proceedings. [1983 c.618 §9]

9.545 State lawyers assistance committee duties; information confidential. (1)(a) The board of governors may create a state lawyers assistance committee for the purpose of implementing a lawyers assistance program and, pursuant thereto, authorize the state lawyers assistance committee to investigate and resolve complaints or referrals regarding lawyers whose performance or conduct may impair their ability to practice law or professional competence. The board may also create local lawyers assistance committees to investigate complaints or referrals for the state lawyers assistance committee.

(b) The board of governors may adopt rules for the processing and resolution of complaints or referrals under the lawyers assistance program.

(c) The purpose of lawyers assistance is to provide supervision and assistance to those lawyers whose performance or conduct may impair their ability to practice law or professional competence.

(2)(a) Any information provided to, or obtained by, the state lawyers assistance committee or any local lawyers assistance committee, or designees thereof shall be exempt from the provisions of ORS 192.410 to 192.505 and shall be inadmissible as evidence in any disciplinary or civil proceeding. The limitations placed on the disclosure and admissibility of information in this section shall not apply to information relating to a lawyer's noncooperation with the state lawyers assistance committee, any local lawyers assistance committee or designees thereof or to information otherwise obtained by the bar from any other source.

(b) All meetings of the state lawyers assistance committee and the local lawyers assistance committees created by the board shall be exempt from the provisions of ORS 192.610 to 192.690.

(3) Any person who makes a complaint or referral to the bar as to the competence of an attorney or provides information or testimony in connection with the lawyers assistance program authorized by this section shall not be subject to an action for civil damages as a result thereof.

(4) With respect to their acts in connection with the lawyers assistance program authorized by this section, the same privileges and immunities from civil and criminal proceedings that apply to prosecuting and judicial officers of the state shall apply to the board of governors, all officers and employes of the bar, and the members of the state lawyers assistance committee, local lawyers assistance committees, and their designees.

(5) For the purposes of this section, designees shall include investigators, attorneys, counselors, staff personnel and any other individual or entity acting on behalf of or at the request of the state lawyers assistance committee or local lawyers assistance committees created by the board of governors. [1983 c.617 §2 (enacted in lieu of 9.595)]

9.550 [Amended by 1961 c.499 §6, 1973 c.490 §3, 1975 c 641 §6, 1979 c 252 §23, repealed by 1983 c 618 §1]

9.555 Copy of complaint or notice to Attorney General when bar is plaintiff or defendant; exceptions. (1) Upon commencement of any action in which the bar is a plaintiff, the bar shall mail a copy of the complaint by certified or registered mail, return receipt requested, to the Attorney General and shall file proof of such mailing with the court.

(2) When the bar is served with summons and complaint in an action in which the bar is named as a defendant, the bar shall give notice to the Attorney General by mailing a copy of the summons and complaint to the Attorney General by certified or registered mail, return receipt requested, within five working days of the date of service on the bar.

(3) The notice provisions of subsections (1) and (2) of this section shall not apply to matters involving admission of any applicant to the bar, discipline or reinstatement of a member of the bar or claims made against a member of the bar for which the professional liability fund of the bar may be obligated to pay money damages under ORS 9.080 (2). [1985 c 446 §3]

9.560 [Amended by 1963 c.106 §1; 1973 c 490 §4, 1975 c.641 §7; 1979 c.252 §24; repealed by 1983 c 618 §1]

9.565 Tax return information from Department of Revenue; use. The Department of Revenue may furnish to the Oregon State Bar the name and address, if known, of any person admitted to practice law in this state who prepares a return or report permitted or required to be filed with the department for another, and may also furnish to the bar the name and address of the taxpayer, in instances where the department has reasonable grounds to believe the person preparing the return or report prepared it in violation of any provision of ORS 9.460 to 9.545 or 9.705 to 9.775 or the disciplinary rules adopted thereunder. The department shall provide a statement of the basis for its belief that a violation may have occurred. The bar and any person, board or committee described in ORS 9.537 (2), shall use the names, addresses and information furnished under this section solely in the enforcement of ORS 9.460 to 9.545 or 9.705 to 9.775 or the disciplinary rules adopted thereunder. Any information disclosed by the department pursuant to this section may be used in any bar proceeding relating to the discipline, admission or reinstatement of the person preparing the return or report. [1985 c.602 §10]

9.570 [Repealed by 1983 c.618 §1]

9.580 [Repealed by 1983 c.618 §1]

9.590 [Repealed by 1953 c 609 §2]

9.595 [1981 c.193 §11; repealed by 1983 c.618 §1 (9 545 enacted in lieu of 9.595)]

9.600 [Repealed by 1953 c 609 §2]

9.610 [Repealed by 1953 c.609 §2]

CLIENT SECURITY FUND

9.615 Definitions for ORS 9.615 to 9.665. As used in ORS 9.615 to 9.665, "client security fund" means a fund created under ORS 9.625. [1967 c.546 §2]

9.620 [Repealed by 1953 c 609 §2]

9.625 Plan to relieve client losses. The board of governors may adopt a plan to relieve or mitigate pecuniary losses to the clients of active members caused by dishonest conduct of those members in their practice of law. The plan may provide for establishing, administering and dissolving a separate fund and for payments from that fund to reimburse losses and costs and expenses of administering the fund. The insurance laws of the state shall not apply to this fund. [1967 c 546 §3, 1975 c 641 §10]

9.630 [Repealed by 1953 c 609 §2]

9.635 Sources of client security fund. A client security fund may include:

(1) Transfers by the board of governors from other funds of the state bar;

(2) Voluntary contributions and payments by members under ORS 9.645;

(3) Claims recovered under ORS 9.665; and

(4) Income from investments of the fund. [1967 c 546 §4]

9.640 [Repealed by 1953 c 609 §2]

9.645 Annual payment by state bar members. To establish and maintain a client security fund, the board of governors may require an annual payment of not to exceed $15 by each active member of the state bar. The payment authorized by this section shall be due at the same time, and enforced in the same manner, as payment of the annual membership fee. [1967 c 546 §5, 1975 c 641 §11, 1979 c.314 §1, 1983 c 122 §1]

9.650 [Repealed by 1953 c 609 §2]

9.655 Investigation of claim of loss; subpena. (1) Upon the filing of a claim, verified under oath, by a client claiming a pecuniary loss under ORS 9.625, the board or its designated representative shall determine if the person named in the claim as the attorney whose dishonest conduct caused the loss:

(a) Maintained an office in the State of Oregon at the time of the transaction out of which the claim arose; and

(b) Has been found guilty of a crime arising out of the claimed dishonest conduct which caused the loss; or

(c) Has been the object of a judgment or decree entered in any proceeding arising out of the claimed dishonest conduct which caused the loss and, if the object of a judgment for money entered in favor of the claimant, has failed to pay the judgment, and execution issued on the judgment has been returned uncollected or that issuance of execution would be a useless act.

(2) After complying with subsection (1) of this section, if the board or representative requires additional information to determine the claim, the board or the representative may compel by subpena the person named in the claim as the attorney whose dishonest conduct caused the loss, or any other person having knowledge of the matter, to appear for the purpose of giving testimony, and may compel by subpena the production of records and documents pertinent to the claim. The subpena shall have the same force and effect as in a civil action in the circuit court, and may be enforced by order of the circuit court for the county in which the person was served. [1967 c 546 §6, 1975 c 641 §12, 1979 c 383 §1]

9.660 [Repealed by 1953 c.609 §2]

9.665 Authority for reimbursement of client; subrogation for amount paid. Reimbursement from the client security fund is discretionary; however, the board shall not authorize payment unless the conditions of ORS 9.655 (1)(a) or (b) have been found to exist. The state bar is subrogated, in the amount that a client's claim is reimbursed from the client security fund, to all rights and remedies of that client against the attorney whose dishonest conduct caused the loss, or against the estate of the attorney. [1967 c 546 §7]

9.670 [Repealed by 1953 c 609 §2]

9.680 [Repealed by 1953 c 609 §2]

9.690 [Repealed by 1953 c.609 §2]

SEARCH OR SEIZURE OF LAWYER FILES OR PREMISES

9.695 Status of files or work premises of lawyer; inadmissibility of evidence subject to search or seizure. (1) Notwithstanding ORS 133.535, the files, papers, effects or work premises of a lawyer relating to the provision of legal service by the lawyer shall not be subject to search or seizure by any law enforcement officer, either by search warrant or otherwise.

(2) The provisions of subsection (1) of this section do not apply where there is probable cause to believe that the lawyer has committed, is committing or is about to commit a crime.

(3) As used in this section, "lawyer" means a member of the Oregon State Bar or a person licensed to practice law in any court of this state or any court of record of the United States or of any state, territory or other jurisdiction of the United States.

(4) Evidence or the fruits thereof obtained in violation of this section shall be inadmissible in any criminal or civil action or proceeding, except

for an action or suit brought for violation of this section or the rights protected thereby. [1981 c 908 §1]

9.700 [Repealed by 1953 c 609 §2]

ASSUMING PRACTICE OF NONPERFORMING ATTORNEY

9.705 Definitions for ORS 9.705 to 9.755. As used in ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755:

(1) "Affected attorney" means a member or former member of the Oregon State Bar whose law practice is placed within the jurisdiction of the court or as to whom a petition has been filed to place such law practice within the jurisdiction of the court.

(2) "Law practice" means a practice conducted by an individual, a partnership or a professional corporation. [1979 c.252 §2, 1985 c 512 §4]

9.710 Jurisdiction of circuit court when attorney fails to devote adequate attention to practice or interest of clients. The circuit court of the county in which an attorney engaged in the practice of law in this state maintains or has maintained a principal office shall have jurisdiction as provided in ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 whenever such attorney:

(1) Without good reason has ceased to devote or is incapable of devoting time and attention, personally or through another attorney, to the law practice of the attorney; or

(2) For any reason has ceased to devote or is incapable of devoting the time and attention, personally or through another attorney, to the law practice of the attorney which is necessary to protect the interests of the clients of the attorney. [1979 c 252 §3, 1985 c 512 §5]

9.715 Effect of failure to respond to inquiry from bar. If the affected attorney fails to respond adequately to inquiries sent by registered mail from the bar to the last-known address of that attorney regarding the alleged failure of the affected attorney to serve and protect adequately the interests of that client of the attorney, either personally or through another attorney, the board of governors may petition the court to take jurisdiction over the law practice of an affected attorney as provided in ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755. Notice of the filing of the petition, and a copy thereof, shall be served upon the affected attorney, or if appropriate, upon the heirs of the affected attorney, personal representatives or conservators together with notice of time and place for hearing upon said petition. Service may be made by personal or substituted service as provided by law for service of a summons, or in the alternative, may be made by certified or registered mail, return receipt requested, addressed to the affected attorney at the latest address shown on the official membership records of the Oregon State Bar or to the personal representative or conservator of the affected attorney at the latest address shown in the probate proceeding. The court may prescribe additional alternative methods of service as it deems necessary to protect the interest of the affected attorney. Hearing upon said petition shall be held not sooner than five days, nor more than 15 days, after the filing of the petition. [1979 c.252 §4; 1985 c 512 §6]

9.720 Court assuming law practice; hearing. If after notice and an opportunity to be heard the court finds that it has jurisdiction and finds that the assumption of such jurisdiction is necessary in order to protect the interest of the clients of the affected attorney or to protect the public interest, the court may, by appropriate order, immediately take jurisdiction over the law practice of the affected attorney, including all legal files, clients' trust funds, clients' property and all books, records, funds and property used in the law practice of the affected attorney. [1979 c 252 §5]

9.725 Appointment of custodians of law practice; duties of custodian and court. (1) If the court assumes jurisdiction under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755, it shall appoint one or more attorneys who are members in good standing of the Oregon State Bar to act as custodian of the law practice of the affected attorney. Immediately upon appointment, such custodian shall take possession and control of all property comprising the law practice of the affected attorney. The court may order any custodian appointed under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 to do one or more of the following:

(a) Examine the files and records of the law practice and obtain information as to any pending matters which may require attention;

(b) Notify persons and entities who appear to be clients of the affected attorney that the court has assumed jurisdiction and inform such persons that it may be in their best interest to obtain other legal counsel;

(c) Apply for extensions of time pending employment of other counsel by the client;

(d) File notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained;

(e) Give notice to appropriate persons and entities who may be affected, other than clients, that the court has assumed jurisdiction;

(f) Arrange for the surrender or delivery of clients' papers or property; and

(g) Do such other acts as the court may direct to carry out the purposes of ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755.

(2) The court shall have jurisdiction over the files, records and property of the affected attorney for the purposes of ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755, and may make all orders necessary or appropriate to protect the interest of the affected attorney, the clients of the affected attorney and the public. [1979 c 252 §6; 1985 c.512 §7]

9.730 Restriction of custodian's practice. An attorney appointed as custodian under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755, and any professional corporation, partner, associate or person sharing office with such custodian shall be prohibited from accepting employment by any client of the affected attorney as to any legal matter pending at the time of the custodian's appointment, provided, however, that any act done by such custodian pursuant to order of the court under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 shall not be deemed acceptance of employment. [1979 c. 252 §9; 1985 c 512 §8]

9.735 Compensation for custodian; lien status of compensation order. The court shall award reasonable compensation and expenses to any attorney who acts as custodian under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755. The court's order shall be in the form of a judgment for the amount of such award against the affected attorney or the estate of the affected attorney. Said judgment shall be a lien upon all nontrust funds, office furnishings, supplies, equipment, library and other personal property used in the law practice of the affected attorney retroactive to the date of filing of the petition for jurisdiction under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755. Said judgment lien shall be subordinate to nonpossessory liens and security interest created prior to its taking effect, and may be foreclosed as provided in ORS chapter 87. [1979 c 252 §11; 1985 c 512 §9]

9.740 Court orders appealable; stay. Jurisdictional and final orders of the circuit court pursuant to ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 are appealable but may not be stayed except as ordered by the circuit court or any appellate court. [1979 c 252 §7; 1985 c.512 §10]

9.745 Statutes of limitation suspended. Any applicable statute of limitations or time limit for the filing set by statute or rule of court as it relates to the affected attorney's clients shall be suspended automatically by the filing of a petition for jurisdiction under ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 for a period of 120 days following the date of filing of such petition. [1979 c.252 §8, 1985 c 512 §11]

9.750 Applicability of lawyer-client privilege to examination of files and records. Persons examining the files and records of the law practice of the affected attorney pursuant to ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 shall observe the lawyer-client privilege and shall make disclosure only to the extent necessary to carry out the purposes of ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755. Such disclosure is a disclosure which is reasonably necessary for the accomplishment of the purpose for which the affected attorney was consulted. The appointment of such custodian shall not affect the lawyer-client privilege which privilege shall apply to communications by or to the custodian to the same extent as it would have applied to communications by or to the affected attorney. [1979 c 252 §10, 1985 c 512 §12]

9.755 Final report of custodian; petition for compensation; court approval. Whenever the purposes of ORS 9.005, 9.040, 9.050, 9.090, 9.180, 9.200, 9.210, 9.260, 9.270 and 9.705 to 9.755 have been accomplished with respect to the law practice of an affected attorney, the custodian attorney shall file with the court a final report and accounting of all funds and property coming into the custody of that attorney. A copy thereof and a copy of the petition of custodian attorney for compensation and expenses shall be mailed to all persons upon whom service was made pursuant to ORS 9.715. Upon approval by the court an order shall be entered approving the final report and accounting, fixing the amount of compensation and expenses to be allowed to the custodian attorney, and discharging the custodian attorney from further duties. [1979 c 252 §12; 1985 c.512 §13]

LAW LIBRARIES

9.760 Judicial department library services; fees. The State Court Administrator may authorize any library of the judicial department of government to provide photographic or other copies of any of its materials, and to make reasonable charges for such copies or services. [Amended by 1959 c.655 §1; 1985 c.308 §2]

9.770 [Amended by 1959 c.655 §2; repealed by 1985 c 308 §6]

9.780 Exchange of legal publications. The State Court Administrator may send, free of charge, one copy of the codes, session laws and Supreme Court, Court of Appeals and Oregon Tax Court reports of this state as the same may be published, to each state and foreign country that exchanges, free of charge, its codes, session laws and equivalent reports with this state. All legal books and publications received in exchange by the state shall be added to the collection of the Supreme Court Library. [Amended by 1985 c.308 §3]

9.790 Legislative Counsel furnishing copies of codes and session laws for exchange. The Legislative Counsel shall, upon requisition of the State Court Administrator, supply a sufficient number of copies of the codes and session laws of this state, as the same may be published, to carry out the provisions of ORS 9.780. [Amended by 1985 c 308 §4]

9.800 Sale of surplus codes and session laws. The State Court Administrator may sell the unused sets of Oregon codes and session laws which are not needed for the purpose of exchanging for the codes and session laws of other states and for other books. The sales shall be for cash and the proceeds deposited as provided by ORS 8.130. [Amended by 1985 c.308 §5]

9.810 [Repealed by 1985 c.308 §6]

9.820 Law libraries in Multnomah County. In all counties containing more than 400,000 inhabitants, according to the latest federal decennial census, the county court or board of county commissioners may contract with any law library association or corporation owning and maintaining a law library in the county at or convenient to the courthouse, for the use of the library by the judges of the circuit and county courts, county commissioners, district attorney and all members of the bar, and shall, if the association permits the use of its library by all members of the bar without charge, pay therefor all library fees collected pursuant to ORS 21.350 (1) to the library association or corporation for the use of the library. [Amended by 1963 c 519 §1; 1965 c 619 §3]

9.830 Disposition of library fees in Multnomah County. Fees collected pursuant to ORS 21.350 (1) shall be paid, in the manner determined by the State Court Administrator, to the appropriate officer of the county within the first 25 days of the month following the month in which collected, for payment to the library association or corporation contracted with pursuant to ORS 9.820. [Amended by 1965 c.619 §4; 1981 s s c 3 §78; 1983 c.763 §36]

9.840 Law libraries in counties other than Multnomah County. The county court of any county containing not more than 400,000 inhabitants, according to the latest federal decennial census, may, after a resolution duly passed by the bar association of the county therefor has been filed with the county clerk, pass a resolution at a regular meeting of the county court, declaring that the county maintains and operates a law library as described in ORS 21.350 (2), or that the county proposes, after the passing of the resolution by the county court, to establish, maintain and operate such a library, and reciting that the county has a population of not more than 400,000, according to the latest federal decennial census. Such resolution shall be authorization and direction to the clerk of a court to collect the fees prescribed in ORS 21.350 (1). Fees so collected shall be paid, in the manner determined by the State Court Administrator, to the appropriate officer of the county within the first 25 days of the month following the month in which collected. [Amended by 1963 c 519 §2, 1965 c.619 §5; 1981 s s c 3 §79; 1983 c.763 §37]

9.850 Disposition of library fees in counties other than Multnomah County. In all counties containing not more than 400,000 inhabitants, according to the latest federal decennial census, the county court may use such part of the law library fees collected pursuant to ORS 21.350 (1) as it deems desirable for the purpose of acquiring, maintaining or operating a law library at the county seat of the county, at such place as it may direct; but no part of the moneys received from such law library fees shall be used for any purpose other than acquiring, maintaining or operating such law library. [Amended by 1963 c 519 §3; 1965 c.619 §6]

PENALTIES

9.990 Penalties. (1) Any person who violates ORS 9.160 shall be fined not more than $500 or imprisoned in the county jail for a period not to exceed six months, or both.

(2) Any person who violates any of the provisions of ORS 9.500 or 9.520 shall be fined not more than $1,000.

(3) Any person violating any of the provisions of ORS 9.505 shall, upon conviction, be fined not more than $1,000 or imprisoned in the county jail for a period not to exceed one year, or both. [Subsection (3) enacted as 1961 c 561 §4]