

Requested by Senator HASS

**PROPOSED AMENDMENTS TO
SENATE BILL 1553**

1 On page 1 of the printed bill, line 2, after the first semicolon delete the
2 rest of the line and lines 3 through 5 and insert “amending ORS 646.639.”.

3 Delete lines 7 through 25 and delete pages 2 through 11 and insert:

4 **“SECTION 1.** ORS 646.639 is amended to read:

5 “646.639. (1) As used in this section and ORS 646A.670:

6 “(a) ‘Charged-off debt’ means a debt that a creditor treats as a loss or
7 expense and not as an asset.

8 “(b) ‘Consumer’ means a natural person who purchases or acquires prop-
9 erty, services or credit for personal, family or household purposes.

10 “(c) ‘Consumer transaction’ means a transaction between a consumer and
11 a person that sells, leases or provides property, services or credit to con-
12 sumers.

13 “(d) ‘Credit’ means a right that a creditor grants to a consumer to defer
14 payment of a debt, to incur a debt and defer payment of the debt, or to
15 purchase or acquire property or services and defer payment for the property
16 or services.

17 “(e) ‘Creditor’ means a person that, in the ordinary course of the person’s
18 business, engages in consumer transactions that result in a consumer owing
19 a debt to the person.

20 “(f) ‘Debt’ means an obligation or alleged obligation that arises out of a
21 consumer transaction.

1 “(g)(A) ‘Debt buyer’ means a person that regularly engages in the business
2 of purchasing charged-off debt for the purpose of collecting the charged-off
3 debt or hiring another person to collect or bring legal action to collect the
4 charged-off debt.

5 “(B) ‘Debt buyer’ does not include a person that acquires charged-off debt
6 as an incidental part of acquiring a portfolio of debt that is predominantly
7 not charged-off debt.

8 “(h) ‘Debt collector’ means a person that by direct or indirect action,
9 conduct or practice collects or attempts to collect a debt owed, or alleged
10 to be owed, to a creditor or debt buyer.

11 “(i) ‘Debtor’ means a consumer who owes or allegedly owes a debt, in-
12 cluding a consumer who owes an amount that differs from the amount that
13 a debt collector attempts to collect or that a debt buyer purchased or at-
14 tempts to collect.

15 “(j) ‘Legal action’ means a lawsuit, mediation, arbitration or any other
16 proceeding in any court, including a small claims court.

17 “(k) ‘Original creditor’ means the last entity that extended credit to a
18 consumer to purchase goods or services, to lease goods or as a loan of mon-
19 eys.

20 “(L) ‘Person’ means an individual, corporation, trust, partnership, incor-
21 porated or unincorporated association or any other legal entity.

22 “(2) A debt collector engages in an unlawful collection practice if the debt
23 collector, while collecting or attempting to collect a debt, does any of the
24 following:

25 “(a) Uses or threatens to use force or violence to cause physical harm to
26 a debtor or to the debtor’s family or property.

27 “(b) Threatens arrest or criminal prosecution.

28 “(c) Threatens to seize, attach or sell a debtor’s property if doing so re-
29 quires a court order and the debt collector does not disclose that seizing,
30 attaching or selling the debtor’s property requires prior court proceedings.

1 “(d) Uses profane, obscene or abusive language in communicating with a
2 debtor or the debtor’s family.

3 “(e) Communicates with a debtor or any member of the debtor’s family
4 repeatedly or continuously or at times known to be inconvenient to the
5 debtor or any member of the debtor’s family and with intent to harass or
6 annoy the debtor or any member of the debtor’s family.

7 “(f) Communicates or threatens to communicate with a debtor’s employer
8 concerning the nature or existence of the debt.

9 “(g) Communicates without a debtor’s permission or threatens to commu-
10 nicate with the debtor at the debtor’s place of employment if the place of
11 employment is other than the debtor’s residence, except that the debt col-
12 lector may:

13 “(A) Write to the debtor at the debtor’s place of employment if a home
14 address is not reasonably available and if the envelope does not reveal that
15 the communication is from a debt collector other than the person that pro-
16 vided the goods, services or credit from which the debt arose.

17 “(B) Telephone a debtor’s place of employment without informing any
18 other person of the nature of the call or identifying the caller as a debt
19 collector but only if the debt collector in good faith has made an unsuc-
20 cessful attempt to telephone the debtor at the debtor’s residence during the
21 day or during the evening between the hours of 6 p.m. and 9 p.m. The debt
22 collector may not contact the debtor at the debtor’s place of employment
23 more frequently than once each business week and may not telephone the
24 debtor at the debtor’s place of employment if the debtor notifies the debt
25 collector not to telephone at the debtor’s place of employment or if the debt
26 collector knows or has reason to know that the debtor’s employer prohibits
27 the debtor from receiving such communication. For the purposes of this
28 subparagraph, any language in any agreement, contract or instrument that
29 creates or is evidence of the debt and that purports to authorize telephone
30 calls at the debtor’s place of employment does not give permission to the debt

1 collector to call the debtor at the debtor's place of employment.

2 “(h) Communicates with a debtor in writing without clearly identifying
3 the name of the debt collector, the name of the person, if any, for whom the
4 debt collector is attempting to collect the debt and the debt collector's
5 business address, on all initial communications. In subsequent communi-
6 cations involving multiple accounts, the debt collector may eliminate the
7 name of the person, if any, for whom the debt collector is attempting to
8 collect the debt and substitute the term 'various' in place of the person's
9 name.

10 “(i) Communicates with a debtor orally without disclosing to the debtor,
11 within 30 seconds after beginning the communication, the name of the indi-
12 vidual who is initiating the communication and the true purpose of the
13 communication.

14 “(j) Conceals the true purpose of the communication so as to cause any
15 expense to a debtor in the form of long distance telephone calls, telegram
16 fees, additional charges for wireless communication or other charges the
17 debtor might incur by using a medium of communication.

18 “(k) Attempts or threatens to enforce a right or remedy while knowing
19 or having reason to know that the right or remedy does not exist, or
20 threatens to take any action that the debt collector in the regular course of
21 business does not take.

22 “(L) Uses any form of communication that simulates legal or judicial
23 process or that appears to be authorized, issued or approved by a govern-
24 mental agency, governmental official or an attorney at law if the corre-
25 sponding governmental agency, governmental official or attorney at law has
26 not in fact authorized or approved the communication.

27 “(m) Represents that an existing debt may be increased by the addition
28 of attorney fees, investigation fees or any other fees or charges if the fees
29 or charges may not legally be added to the existing debt.

30 “(n) Collects or attempts to collect interest or other charges or fees that

1 exceed the actual debt unless the agreement, contract or instrument that
2 creates the debt expressly authorizes, or a law expressly allows, the interest
3 or other charges or fees.

4 “(o) Threatens to assign or sell a debtor’s account and misrepresents or
5 implies that the debtor would lose any defense to the debt or would be sub-
6 jected to harsh, vindictive or abusive collection tactics.

7 “(p) Uses the seal or letterhead of a public official or a public agency,
8 as those terms are defined in ORS 171.725.

9 “(q) Collects or attempts to collect any debt that the debt collector knows,
10 or after exercising reasonable diligence would know, arises from medical
11 expenses that qualify for reimbursement under the Oregon Health Plan or
12 under Medicaid, except that:

13 “(A) The debt collector does not engage in an unlawful collection practice
14 if the debt collector can produce an affidavit or certificate from the original
15 creditor that shows that the original creditor complied with Oregon Health
16 Authority rules barring payments for services that Medicaid fee-for-service
17 plans or contracted health care plans cover; and

18 “(B) For purposes of this paragraph, a prepaid managed care health ser-
19 vices organization, a coordinated care organization or a public body, as de-
20 fined in ORS 174.109, or an agent or assignee of the organization or public
21 body, is not a debt collector if the organization or public body seeks to col-
22 lect a debt that arises under ORS 416.540.

23 “(r) Files a legal action to collect or files a legal action to attempt to
24 collect a debt if the debt collector knows, or after exercising reasonable
25 diligence would know, that an applicable statute of limitations bars the col-
26 lection or the collection attempt.

27 “(s) Knowingly collects any amount, including any interest fee, charge
28 or expense incidental to the principal obligation, unless the amount is ex-
29 pressly authorized by the agreement creating the debt or permitted by law.

30 “[*t*] *Collects or attempts to collect a debt before providing to a debtor,*

1 *within 30 days after the date of the debtor's request, all of the documents listed*
2 *in subsection (4)(b) of this section.]*

3 **“(t) Collects or attempts to collect a debt if the debt collector is a**
4 **debt buyer, or is acting on a debt buyer's behalf, and collects or at-**
5 **tempts to collect purchased debt before providing to a debtor, within**
6 **30 days after the date of the debtor's request, all of the documents**
7 **listed in subsection (4)(b) of this section.**

8 “(3) A debt collector engages in an unlawful collection practice if the debt
9 collector, by use of any direct or indirect action, conduct or practice, en-
10 forces or attempts to enforce an obligation made void and unenforceable by
11 the provisions of ORS 759.720 (3) to (5).

12 “(4) A debt buyer or debt collector acting on behalf of a debt buyer en-
13 gages in an unlawful collection practice if the debt buyer or debt collector:

14 “(a) Files legal action against a debtor or files legal action to attempt to
15 collect a debt if the debt buyer or debt collector knows or after exercising
16 reasonable diligence would know that an applicable statute of limitations
17 bars the legal action to collect or the legal action to attempt to collect the
18 debt;

19 “(b) Brings a legal action against a debtor or otherwise brings a legal
20 action to attempt to collect a debt without possessing business records that
21 satisfy the requirements of ORS 40.460 (6) or ORS 24.115, if the record is a
22 foreign judgment, that establish the nature and the amount of the debt and
23 that include:

24 “(A) The original creditor's name, written as the original creditor used
25 the name in dealings with the debtor;

26 “(B) The name and address of the debtor;

27 “(C) The name, address and telephone number of the person that owns the
28 debt and a statement as to whether the person is a debt buyer;

29 “(D) The last four digits of the original creditor's account number for the
30 debt, if the original creditor's account number for the debt had four or more

1 digits;

2 “(E) A detailed and itemized statement of:

3 “(i) The amount the debtor last paid on the debt, if the debtor made a
4 payment, and the date of the payment;

5 “(ii) The amount and date of the debtor’s last payment on the debt before
6 the debtor defaulted or before the debt became charged-off debt;

7 “(iii) The balance due on the debt on the date on which the debt became
8 charged-off debt;

9 “(iv) The amount and rate of interest, any fees and any charges that the
10 original creditor imposed, if the debt buyer or debt collector knows the
11 amount, rate, fee or charge;

12 “(v) The amount and rate of interest, any fees and any charges that the
13 debt buyer or any previous owner of the debt imposed, if the debt buyer or
14 debt collector knows the amount, rate, fee or charge;

15 “(vi) The attorney fees the debt buyer or debt collector seeks, if the debt
16 buyer or debt collector expects to recover attorney fees; and

17 “(vii) Any other fee, cost or charge the debt buyer seeks to recover;

18 “(F) Evidence that the debt buyer and only the debt buyer owns the debt;

19 “(G) The date on which the debt buyer purchased the debt; and

20 “(H) A copy of the agreement between the original creditor and the debtor
21 that is either:

22 “(i) The contract or other writing the debtor signed that created and is
23 evidence of the original debt; or

24 “(ii) A copy of the most recent monthly statement that shows a purchase
25 transaction or balance transfer or the debtor’s last payment, if the debtor
26 made a payment, if the debt is a credit card debt or other debt for which a
27 contract or other writing that is evidence of the debt does not exist;

28 “(c) Fails to provide to a debtor, after the debt buyer or debt collector
29 receives payment in cash or the debtor requests the receipt, a receipt that:

30 “(A) Shows the name of the creditor or creditors for whom the debt buyer

1 or debt collector received the payment and, if the creditor is not the original
2 creditor, the account number that the original creditor assigned; and

3 “(B) States clearly whether the debt buyer or debt collector accepts the
4 payment as payment in full or as a full and final compromise of the debt and,
5 if not, the balance remaining on the debt after the payment;

6 “(d) Collects or attempts to collect a debt before providing, in response
7 to a debtor’s request, the documents required under paragraph (b) of this
8 subsection. A debt buyer or a debt collector that acts on the debt buyer’s
9 behalf does not engage in an unlawful collection practice under this para-
10 graph if the debt buyer or debt collector collects or attempts to collect a debt
11 after providing the required documents to the debtor; or

12 “(e) Uses any direct or indirect action, conduct or practice to violate a
13 provision of this section or ORS 646A.670.

14 “(5) A debt collector is not acting on a debt buyer’s behalf, and is not
15 subject to the duties to which a debt buyer is subject under this section and
16 ORS 646A.670, if the debt collector collects or attempts to collect a debt on
17 behalf of an owner that retains a direct interest in the debt or if the debt
18 is not a debt that a debt buyer purchased.”.

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