

Oregon

Summary

License is not required for active and debt buyers.

Resources

Licensing Information: http://www.cbs.state.or.us/dfcs/collection_agencies.html

Statutes: https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors697.html

Rules: http://arcweb.sos.state.or.us/pages/rules/oars_400/oar_441/441_810.html

Statutory Provisions

697.005 Definitions for ORS 697.005 to 697.095.

As used in ORS 697.005 to 697.095:

(1) (a) "Collection agency" means:

(A) A person directly or indirectly engaged in soliciting a claim for collection, or collecting or attempting to collect a claim that is owed, due or asserted to be owed or due to another person or to a public body at the time the person solicits, collects or attempts to collect the claim;

(B) A person that directly or indirectly furnishes, attempts to furnish, sells or offers to sell forms represented to be a collection system even if the forms direct the debtor to make payment to the creditor and even if the forms may be or are actually used by the creditor in the creditor's own name;

(C) A person that, in attempting to collect or in collecting the person's own claim, uses a fictitious name or any name other than the person's own that indicates to the debtor that a third person is collecting or attempting to collect the claim;

(D) A person in the business of engaging in the solicitation of the right to repossess or in repossessing collateral security due or asserted to be due to another person; or

(E) A person that, in the collection of claims from another person:

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

(ii) Engages in any action or conduct that tends to convey the impression that a third party has been employed or engaged to collect the claim.

(b) "Collection agency" does not include:

(A) An individual engaged in soliciting claims for collection, or collecting or attempting to collect claims on behalf of a registrant under ORS 697.005 to 697.095, if the individual is an employee of the registrant.

(B) An individual collecting or attempting to collect claims for not more than three employers, if the individual carries on all collection efforts in the name of the employer and the individual is an employee of the employer.

(C) A person that prepares or mails monthly or periodic statements of accounts due on behalf of another person if all payments are made to the other person and the person that prepares the statements of accounts does not make other collection efforts.

(D) An attorney-at-law rendering services in the performance of the duties of an attorney-at-law.

(E) A licensed certified public accountant or public accountant rendering services in the performance of the duties of a licensed certified public accountant or public accountant.

(F) A bank, mutual savings bank, consumer finance company, trust company, savings and loan association, credit union or debt consolidation agency.

(G) A principal real estate broker licensed under ORS 696.020, as to any collection or billing activity that involves a real estate closing escrow, as defined in ORS 696.505.

(H) An escrow agent licensed under ORS 696.511, with respect to the escrow agent's:

(i) Collection or billing activities involved in closing an escrow, as defined in ORS 696.505, or related to a collection escrow, as defined in ORS 696.505; or

(ii) Service as a trustee of a trust deed in accordance with ORS 86.790.

(I) An individual regularly employed as a credit person or in a similar capacity by one person, firm or corporation that is not a collection agency as defined in this section.

(J) A public officer or a person acting under order of a court.

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

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

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

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

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

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

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

(I) Allows recourse against the commercial client;

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

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

(N) An individual employed by another person that operates as a collection agency if the person does not operate as a collection agency independent of that employment.

(O) A mortgage banker as defined in ORS 86A.100.

(P) A public utility, as defined in ORS 757.005, a telecommunications utility, as defined in ORS 759.005, a people's utility district, as defined in ORS 261.010, and a cooperative corporation engaged in furnishing electric or communication service to consumers.

(Q) A public body or an individual collecting or attempting to collect claims owed, due or asserted to be owed or due to a public body, if the individual is an employee of the public body.

(R) A person that receives an assignment of debt in any form without an obligation to pay the assignor any of the proceeds resulting from a collection of all or a portion of the debt.

(S) A person for whom the Director of the Department of Consumer and Business Services determines by order or by rule that the protection of the public health, safety and welfare does not require registration with the department as a collection agency.

(2) "Collection system" means a scheme intended or calculated to be used to collect claims sent, prepared or delivered by:

- (a) A person who in collecting or attempting to collect the person's own claim uses a fictitious name or any name other than the person's own that indicates to the debtor that a third person is collecting or attempting to collect the claim; or
- (b) A person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person.
- (3) "Claim" means an obligation for the payment of money or thing of value arising out of an agreement or contract, express or implied.
- (4) "Client" or "customer" means a person authorizing or employing a collection agency to collect a claim.
- (5) "Debtor" means a person owing or alleged to owe a claim.
- (6) "Debts incurred outside this state" means an action or proceeding that:
 - (a) Arises out of a promise, made anywhere to the plaintiff or a third party for the plaintiff's benefit, by the defendant to perform services outside of this state or to pay for services to be performed outside of this state by the plaintiff;
 - (b) Arises out of services actually performed for the plaintiff by the defendant outside of this state or services actually performed for the defendant by the plaintiff outside of this state, if the performance outside of this state was authorized or ratified by the defendant;
 - (c) Arises out of a promise, made anywhere to the plaintiff or a third party for the plaintiff's benefit, by the defendant to deliver or receive outside of this state or to send from outside of this state goods, documents of title or other things of value;
 - (d) Relates to goods, documents of title or other things of value sent from outside of this state by the defendant to the plaintiff or a third person on the plaintiff's order or direction;
 - (e) Relates to goods, documents of title or other things of value actually received outside of this state by the plaintiff from the defendant or by the defendant from the plaintiff, without regard to where delivery to carrier occurred; or
 - (f) Where jurisdiction at the time the debt was incurred was outside of this state.
- (7) "Out-of-state collection agency" means a collection agency located outside of this state whose activities within this state are limited to collecting debts incurred outside of this state from debtors located in this state. As used in this subsection, "collecting debts" means collecting by means of interstate communications, including telephone, mail or facsimile transmission from the collection agency location in another state on behalf of clients located outside of this state.
- (8) "Person" means an individual, firm, partnership, trust, joint venture, association, limited liability company or corporation.
- (9) "Public body" means:
 - (a) The state and any branch, department, agency, board or commission of the state;
 - (b) A city, county, district or other political subdivision or municipal or public corporation or an instrumentality thereof; and
 - (c) An intergovernmental agency, department, council, joint board of control created under ORS 190.125 or other like entity that is created under ORS 190.003 to 190.130 and that does not act under the direction and control of any single member government.
- (10) "Registered" or "registrant" means a person registered under ORS 697.005 to 697.095 or registered or licensed as a collection agency under the laws of another state.
- (11) "Statement of account" means a report setting forth amounts billed, invoices, credits allowed or aged balance due.

697.015 Registration requirement.

A person shall not operate as a collection agency in this state unless the person registers with the Department of Consumer and Business Services under ORS 697.031 and maintains the registration in accordance with that section.

697.031 Registration procedure; bond or letter of credit; fees; procedures for out-of-state collection agencies; rules.

(1) The Director of the Department of Consumer and Business Services shall establish by rule a program for registration of persons operating as collection agencies that are required to register with the Department of Consumer and Business Services under [ORS 697.015](#). The program shall include a requirement that persons registering with the department file and maintain with the department current information the department requires by rule. The department may require any information necessary to carry out the program, including but not limited to the following:

(a) The name and address of the person operating as a collection agency.

(b) The name and address of the collection agency.

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

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

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

(2) (a) The director shall require any person who applies for registration as a collection agency, other than an out-of-state collection agency, to file with the director a bond or an irrevocable letter of credit in the sum of \$ 10,000 executed by the applicant as obligor, together with one or more corporate sureties or financial institutions authorized to do business in this state. The bond or an irrevocable letter of credit shall be executed to the State of Oregon and for the use of the state and of any person who may have a cause of action against the obligor of the bond or an irrevocable letter of credit under [ORS 697.005](#) to [697.095](#). The bond or an irrevocable letter of credit shall be conditioned that the obligor will faithfully conform to and abide by the provisions of [ORS 697.005](#) to [697.095](#) and all rules lawfully made by the director under [ORS 697.005](#) to [697.095](#), and will pay to the state and to any such person any and all moneys that may become due or owing to the state or to such person from the obligor under and by virtue of the provisions of [ORS 697.005](#) to [697.095](#).

(b) If any person is aggrieved by the misconduct of a registrant required to file a bond or an irrevocable letter of credit under paragraph (a) of this subsection or by the registrant's violation of any law or rule lawfully made by the director under [ORS 697.005](#) to [697.095](#) and recovers judgment therefor, the person may, after the return unsatisfied either in whole or in part of any execution issued upon the judgment, maintain an action for the person's own use upon the bond or irrevocable letter of credit of the registrant in any court having jurisdiction of the amount claimed.

(c) The bond or an irrevocable letter of credit required by this subsection shall be continuously maintained in the amount required by this subsection. The aggregate liability of the surety under the bond for claims against the bond shall not exceed the penal sum of the bond no matter how many years the bond is in force. No extension by continuation certificate, reinstatement, reissue or renewal of the bond shall increase the liability of the surety.

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

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

(b) Except as provided in subsection (4) of this section, the director may establish and require persons filing with the department under this section to pay fees for any registration or filing made with the department. The director shall not establish fees for more than an amount necessary to cover the administrative costs of the filing or registration.

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

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

(4) An out-of-state collection agency is exempt from the registration fee under this section if the out-of-state collection agency is registered in another state and that state does not require payment of an initial fee by a person who collects debts in that state only by means of interstate communications from the person's location in another state.

(5) If an out-of-state collection agency is not exempt from payment of a registration fee under this section, the registration fee for the out-of-state collection agency shall be not less than the fee charged by the state in which the out-of-state collection agency is located to a person who collects debts in that state only by means of interstate communications from the person's location in another state.

(6) If the director determines that the state where an out-of-state collection agency is located and registered, if required to be registered, exempts a collection agency located and registered in this state from registration requirements in that state, the director shall exempt out-of-state collection agencies located in that state from the registration requirements of [ORS 697.005](#) to [697.095](#).

(7) The department shall maintain current records of the information required for registration under this section.