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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**FSR 3-2023**

CHAPTER 441  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
FINANCE AND SECURITIES REGULATION

**FILED**

11/29/2023 10:35 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Adoption of Temporary Rules for Data Brokers Registry HB 2052 (2023)

EFFECTIVE DATE: 12/01/2023 THROUGH 05/28/2024

AGENCY APPROVED DATE: 11/28/2023

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Filed By:  
Karen Winkel  
Rules Coordinator

NEED FOR THE RULE(S):

HB 2052 was introduced by Attorney General Ellen Rosenblum and was developed in consultation with the Attorney General's Consumer Privacy Task Force to address the dangers data brokers pose to Oregonians' safety and privacy, and to provide Oregon consumers with information about data broker practices in the state. HB 2052 defines a data broker as someone who collects, sells, or licenses brokered personal data to another person. HB 2052 requires a data broker to register with the Department of Consumer and Business Services (DCBS) prior to collecting and selling or licensing brokered personal data to another person.

The purpose of this rulemaking is to effectuate a program to prevent data brokers from collecting, selling, or licensing personal data of Oregonians without registration. The registration program will provide Oregonians with important information about what data brokers might have their data, and how they can opt-out of the sale or request deletion of their data.

With this rulemaking, DCBS will provide consumers with a transparent, understandable and easy-to-use way to access information about data brokers operating in Oregon and will provide consumers with the information they need to opt-out of the collection and brokerage of their data.

JUSTIFICATION OF TEMPORARY FILING:

The registration program for the data brokers registry created by House Bill 2052 (2023), takes effect on January 1, 2024, and requires extensive rules and stakeholder input to fully implement. Given the short timeline, the department needs to set up temporary provisions for website development and registration commencement to allow for registration of applicants to begin December 1, 2023, for 2024. The final rules will contain finalized language related to registration process, information required at registration, parameters for filing timely and adequately with the director, and the consequences related to noncompliance with the program.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

[dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx](http://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx).

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**RULES:**

441-840-0010, 441-840-0020, 441-840-0030, 441-840-0040, 441-840-0050, 441-840-0060, 441-840-0070, 441-840-0080, 441-840-0090

**ADOPT:** 441-840-0010

**RULE TITLE:** Definitions as Used in OAR 441-840-0010 to 441-840-0090

**RULE SUMMARY:** States the definition of key terms for purposes of data broker registration.

**RULE TEXT:**

Unless a term is specifically defined elsewhere in these rules or the context otherwise requires, the definitions of Section 1(1) of HB 2052 (2023) are hereby incorporated by reference and made part of these rules.

**STATUTORY/OTHER AUTHORITY:** Or Laws 2023, ch 395

**STATUTES/OTHER IMPLEMENTED:** Or Laws 2023, ch 395

ADOPT: 441-840-0020

RULE TITLE: Registration Requirements

RULE SUMMARY: States the registration process and steps data brokers must follow in order to register with the department. These steps include the timeframe data brokers have to register their application and the fees associated with registering. States the information data brokers must submit to the director electronically, and the requirement that data brokers must provide a declaration along with their application declaring a consumer's ability to opt out of the brokering of their data.

RULE TEXT:

(1) To register with the department for purposes of Section 1 of HB 2052, a data broker shall:

(a) Pay the fees prescribed under OAR 441-840-0050; and

(b) Submit to the director electronically:

(A) The name and any assumed business name of the data broker;

(B) The street address and mailing address of the data broker;

(C) The name and address of the data broker's registered agent in Oregon;

(D) The main telephone number of the data broker;

(E) The data broker's primary website;

(F) The name, phone number and electronic mail address of contact person(s); and

(G) A declaration in which the data broker:

(i) States whether resident individuals may opt out of all or a portion of the data broker's collection, sale or licensing of the resident individuals' brokered personal data;

(ii) Identifies which of the data broker's activities of collecting, selling or licensing brokered personal data a resident individual may opt out of or which portion of the resident individual's brokered personal data the resident individual may opt out of providing or permitting the data broker to collect, sell or license;

(iii) Describes the method by which a resident individual may exercise the choices described in subparagraphs (a) and (b) of this paragraph; and

(iv) States whether a resident individual may authorize another person to exercise the choice described in subparagraph (a) of this paragraph on the resident individual's behalf and, if so, how to do so.

(c) Transmit to the director any information or documentation required to be submitted in connection with an application that cannot be filed electronically in a form and manner approved by the director.

(2) A data broker shall file electronically, in a form and manner approved by the director, all information and documentation submitted to the director pursuant to OAR 441-840-0020(1). If a data broker is unable to file any such information or documentation electronically, the data broker shall transmit such information or documentation in a form and manner approved by the director.

(3) A data broker's registration may be terminated or suspended for any violation of OAR 441-840-0020(1).

(4) A registration under this rule is not valid until the registration is approved by the department.

(5) Except as provided in OAR 441-840-0020(6), a registration under this rule is valid until the end of the calendar year in which the department approves the registration.

(6) A registration under this rule that is approved by the department after November 1 is valid until December 31 of the following year.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0030

RULE TITLE: Deficiencies in Data Broker Registration or Registration Renewal

RULE SUMMARY: States the steps data brokers must follow and complete to correct any deficiencies found in their registry application, renewal, filing or amendment to filing. Includes the penalties associated with failing to correct these deficiencies – including the penalty of suspension of the data broker's registration.

RULE TEXT:

- (1) A registration or registration renewal under this rule will not be approved if the information and documentation submitted under OAR 441-840-0020(1) or OAR 441-840-0040 is incomplete, inaccurate, or otherwise deficient in any material respect.
- (2) If a data broker submits any information or documentation under OAR 441-840-0020(1) or OAR 441-840-0040 that is incomplete, inaccurate, or otherwise deficient in any material respect, the director will notify the data broker of any such deficiencies by email. If the data broker fails to resolve the deficiencies within 30 days after the date on which the email notice was sent:
  - (a) The registration will be considered abandoned;
  - (b) The registration will not be approved; and
  - (c) Any fees paid by the data broker under OAR 441-840-0050 will be forfeit and will not be refunded or otherwise credited to the data broker.
- (3) The failure of a data broker registered under this rule to maintain an active registration to do business in the state of Oregon is a continuing violation for which civil penalties may be imposed under Section 1(7) of HB 2052.
- (4) The director may suspend the registration of a data broker for failure of a data broker registered under this rule to maintain an active registration to do business in the state of Oregon. The procedure for suspension of the registration under this rule is as follows:
  - (a) The director shall notify the data broker that the business registration in the state of Oregon is not active. This notice may be sent by email to the email address of the company's contact person.
  - (b) If the business registration is not active in the state of Oregon within 30 calendar days after sending the notice in subsection (a) of this rule, the director shall suspend the registration of the data broker.
  - (c) A data broker whose registration has been suspended under this rule may reinstate the registration by obtaining an active business registration with the state of Oregon and submitting a written request for reinstatement to the director at any time prior to December 31 of the year the registration was suspended. If the data broker has an active business registration with the state of Oregon and the registration would still be active but for the suspension, the director will reinstate the registration as of the date the written request was received by the director.
  - (d) If the data broker does not file a written request to reinstate the registration as of December 31, the registration will expire and the data broker will have to apply for a new registration in Oregon by submitting a new application.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0040

RULE TITLE: Renewal of Data Broker Registration

RULE SUMMARY: States the renewal process and steps data brokers must follow in order to renew their application with the department. These steps include the timeframe data brokers have to renew their application, and the fees associated with renewing their application.

RULE TEXT:

(1) To renew a valid registration under this rule, a data broker shall, at least 30 days before the expiration of the registration:

(a) Pay the fees prescribed under OAR 441-840-0050; and

(b) Submit to the director in the manner specified in OAR 441-840-0020(2):

(A) A declaration in which the data broker attests that the information and documentation submitted by the data broker under OAR 441-840-0020, as modified by any information and documentation submitted by the data broker under OAR 441-840-0070, is true and correct in all material respects; or

(B) All information and documentation required under OAR 441-840-0020(1).

(2) The approval of a registration renewed in accordance with this rule shall be effective immediately upon the expiration of the registration that is the subject of the renewal.

(3) A data broker's registration may be terminated or suspended for any violation of OAR 441-840-0040(1).

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0050

RULE TITLE: Fees Payable to the Director

RULE SUMMARY: Sets the fee amounts data brokers must pay to the director to register with the department and the fee amounts data brokers must pay to renew their application with the department annually.

RULE TEXT:

(1) A data broker shall pay to the director the following fees at the time of registration or renewal of registration:

(a) A nonrefundable application or renewal fee of \$600.

(b) An additional fee of \$50 will be assessed for any renewals submitted after December 31 and prior to March 1.

(2) A data broker shall pay the fees in a form and manner approved by the director.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0060

RULE TITLE: Rules for Use of an Assumed Business Name

RULE SUMMARY: States the rules for the use of an assumed business name for data brokers.

RULE TEXT:

(1) In addition to any requirements for registering an assumed business name with the Secretary of State, a data broker who intends to use an assumed business name to identify the person's data broker business shall also comply with the following before doing business under the assumed business name:

(a) If the assumed business name contains words or phrases described in ORS 56.023, the data broker must obtain specific written approval from the director under ORS 705.635 and OAR 441-005-0010.

(b) The data broker must list the name as any other assumed or doing business as names in the application.

(2) Regardless of the lack of any ownership interest in the assumed business name, the data broker is responsible for all actions of those acting under the assumed business name which relate to brokering data.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0070

RULE TITLE: Disclosure of Significant Developments

RULE SUMMARY: States the data brokers' duty to disclose to the department any significant developments relating to the breach of security of consumers personal information or any material changes to the information the data broker provided in their application form, including address changes, phone number changes, and any change in assumed business name registered with Secretary of State.

RULE TEXT:

(1) A data broker shall disclose to the director of any breach of security as required in ORS 646A.604 within 45 days of any such breach.

(2) A registered data broker shall notify the director within 45 days following:

(a) Any changes in the information required on the data broker under OAR 441-840-0020 or OAR 441-840-0040;

(b) Any other material changes to information submitted in registration application under OAR 441-840-0020 or OAR 441-840-0040.

(c) Any change in assumed business name registered with Secretary of State.

(3) A data broker's registration may be terminated or suspended for any violation of OAR 441-840-0070(2).

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395



ADOPT: 441-840-0080

RULE TITLE: Investigation by Director

RULE SUMMARY: States the grounds for investigation by the director a data broker may be subject to for any violation of the rules set forth in OAR 441-840-0010 to 441-840-0090.

RULE TEXT:

(1) The director may investigate any business required to be registered under Section 1 of HB 2052 for any violation of the rules set forth in OAR 441-840-0010 to 441-840-0090.

(2) For the purposes of fulfilling the investigations as outlined in (1), the director may:

(a) Make an investigation without prior notice.

(b) Compel the attendance of witnesses and examine the witnesses under oath.

(c) Require the production of documents or records.

(3) A person registered or required to be registered under Section 1 of HB 2052 shall respond to the director's reasonable inquiry related to any requirements of Section 1 of HB 2052 or OAR 441-840-0040, 441-840-0050, 441-840-0060, and 441-840-0070.

(4) Each person investigated under this section shall pay the actual cost of an investigation to the director, including an hourly rate of \$75 an hour for each person used in performance of the investigation.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395

ADOPT: 441-840-0090

RULE TITLE: Termination or Suspension of Data Broker Registration

RULE SUMMARY: States the grounds for termination a data broker may be subject to for any violation of the rules set forth in OAR 441-840-0010 to 441-840-0090.

RULE TEXT:

A data broker's registration may be terminated or suspended for any violation of the rules set forth in OAR 441-840-0010 to 441-840-0090.

STATUTORY/OTHER AUTHORITY: Or Laws 2023, ch 395

STATUTES/OTHER IMPLEMENTED: Or Laws 2023, ch 395