

Senate Bill 731

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that amount in debtor's financial accounts equal to lesser of \$2,500 or total balance of debtor's accounts is not subject to garnishment if specified exempt payment was deposited in one of debtor's accounts by direct deposit or electronic payment within 45 days before writ of garnishment was delivered to financial institution.

Provides that all funds that are exempt under federal law remain exempt when deposited in debtor's financial account as long as exempt funds are reasonably identifiable. Requires application of first in, first out accounting principles for purposes of identifying exempt funds in financial accounts.

Increases wild card exemption from \$400 to \$1,000.

Prohibits financial institution from charging or collecting garnishment processing fee if none of debtor's property held by financial institution is subject to garnishment.

A BILL FOR AN ACT

1
2 Relating to garnishment; creating new provisions; and amending ORS 18.345, 18.348, 18.618, 18.665,
3 18.685, 18.790, 18.835, 18.838, 18.845 and 18.896.

4 **Be It Enacted by the People of the State of Oregon:**

5 6 NONGARNISHABLE AMOUNTS IN FINANCIAL ACCOUNTS

7
8 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 18.252 to 18.993.**

9 **SECTION 2. (1) If a writ of garnishment is delivered to a financial institution that has**
10 **one or more accounts of the debtor, and any payment described in subsection (2) of this**
11 **section was deposited in one of those accounts by direct deposit or electronic payment within**
12 **45 days before the writ of garnishment was delivered to the financial institution, an amount**
13 **equal to the lesser of \$2,500 or the total balance in the debtor's accounts is not subject to**
14 **garnishment.**

15 **(2) The provisions of subsection (1) of this section apply to payments that a financial in-**
16 **stitution can reasonably identify as being:**

17 **(a) Payments from a public or private retirement plan;**

18 **(b) Payments from the Social Security Administration;**

19 **(c) Public assistance payments from the state or a state agency;**

20 **(d) Unemployment compensation payments from the state or a state agency;**

21 **(e) Black lung benefits from the United States Department of Labor;**

22 **(f) Veteran benefits payments from the Veterans Benefits Administration; and**

23 **(g) Workers' compensation payments from a workers' compensation carrier.**

24 **(3) The provisions of this section do not affect the ability of a debtor to claim any ex-**
25 **emption that otherwise may be available to the debtor under law for any amounts in an ac-**
26 **count in a financial institution in excess of the amount specified in subsection (1) of this**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **section.**

2 **SECTION 3.** ORS 18.618 is amended to read:

3 18.618. (1)(a) Notwithstanding ORS 18.615, the following are not garnishable property:

4 (A) Equitable interests, except to the extent allowed under ORS chapter 130.

5 (B) Property in the custody of the law.

6 (C) Property in the possession of a conservator.

7 (D) Property in the possession of a personal representative that constitutes the subject matter
8 of a trust contained in a duly probated will of a decedent.

9 (E) If a residential landlord is the garnishee, property in the possession of a residential landlord
10 that is held as a security deposit or prepaid rent under ORS 90.300.

11 (F) The right of a seller under a land sale contract, as defined by ORS 18.960, to receive pay-
12 ments that are due more than 45 days after the writ of garnishment is delivered.

13 **(G) Amounts in an account in a financial institution described in section 2 of this 2009**
14 **Act.**

15 (b) If a garnishee holds any property described in paragraph (a) of this subsection, the garnishee
16 must note in the garnishee response required by ORS 18.680 that the garnishee holds the property,
17 but may not deliver the property to the garnishor.

18 (2)(a) Notwithstanding ORS 18.615, wages owing by a garnishee to a debtor for a specific pay
19 period are not garnishable property if:

20 (A) The writ is delivered within two business days before the debtor's normal payday for the
21 pay period;

22 (B) When the writ is delivered to the garnishee, the debtor's wages are paid by direct deposit
23 to a financial institution, or the garnishee uses the Oregon Department of Administrative Services
24 or an independent contractor as defined in ORS 670.600 as payroll administrator for the garnishee's
25 payroll; and

26 (C) Before the writ is delivered to the garnishee, the garnishee issued instructions to the fi-
27 nancial institution or the payroll administrator to pay the debtor for the pay period.

28 (b) If a garnishee owes any wages as described in paragraph (a) of this subsection, the garnishee
29 must so note in the garnishee response required by ORS 18.680.

30 (3) Notwithstanding any other provision of law, if a voluntary or involuntary bankruptcy peti-
31 tion has been filed by or on behalf of the debtor after a writ of garnishment could be issued under
32 ORS 18.605, the garnishment of any property of the debtor in the garnishee's possession, control or
33 custody is stayed pursuant to section 362 of the United States Bankruptcy Code (11 U.S.C. 101 to
34 1330).

35
36 **EXEMPT FUNDS IN FINANCIAL ACCOUNTS**

37
38 **SECTION 4.** ORS 18.348 is amended to read:

39 18.348. (1) [All] Funds **that are** exempt from execution [and other process] under ORS 18.358,
40 18.385 [(2) to (4)], 238.445, 344.580, 348.863, 401.405, 407.595, 411.760, 414.095, 655.530, 656.234, 657.855
41 and 748.207 [and 38 U.S.C. 3101 and 42 U.S.C. 407 shall] remain exempt when deposited in an ac-
42 count [of a judgment debtor] **in a financial institution** as long as the exempt funds are **reasonably**
43 identifiable.

44 (2) [Except as provided in subsection (3) of this section, the provisions of] Subsection (1) of this
45 section [do] **does** not apply to any accumulation of funds greater than \$7,500.

1 [(3) Subsection (2) of this section does not apply to funds exempt from execution or other process
 2 under 42 U.S.C. 407.]

3 **(3) All funds that are exempt under federal law remain exempt when deposited in an ac-**
 4 **count in a financial institution as long as the exempt funds are reasonably identifiable.**

5 **(4) The application of subsections (1) and (3) of this section is not affected by the**
 6 **commingling of exempt and nonexempt funds in an account. For the purpose of identifying**
 7 **exempt funds in an account, first in, first out accounting principles shall be used.**

8 **(5) The provisions of this section do not affect the duties of a garnishee with respect to**
 9 **amounts in accounts that are not subject to garnishment under section 2 of this 2009 Act.**

10
 11 **WILD CARD EXEMPTION**

12
 13 **SECTION 5.** ORS 18.345 is amended to read:

14 18.345. (1) All property, including franchises, or rights or interest therein, of the judgment
 15 debtor, shall be liable to an execution, except as provided in this section and in other statutes
 16 granting exemptions from execution. The following property, or rights or interest therein of the
 17 judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

18 (a) Books, pictures and musical instruments to the value of \$600.

19 (b) Wearing apparel, jewelry and other personal items to the value of \$1,800.

20 (c) The tools, implements, apparatus, team, harness or library, necessary to enable the judgment
 21 debtor to carry on the trade, occupation or profession by which the judgment debtor habitually
 22 earns a living, to the value of \$3,000.

23 (d) A vehicle to the value of \$2,150. As used in this paragraph “vehicle” includes an automobile,
 24 truck, trailer, truck and trailer or other motor vehicle.

25 (e) Domestic animals and poultry kept for family use, to the total value of \$1,000 and food suf-
 26 ficient to support such animals and poultry for 60 days.

27 (f) Household goods, furniture, radios, a television set and utensils all to the total value of
 28 \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use
 29 of the judgment debtor; provisions actually provided for family use and necessary for the support
 30 of a householder and family for 60 days and also 60 days’ supply of fuel.

31 (g) All property of the state or any county or incorporated city therein, or of any other public
 32 or municipal corporation of like character.

33 (h) All professionally prescribed health aids for the debtor or a dependent of the debtor.

34 (i) Spousal support, child support, or separate maintenance to the extent reasonably necessary
 35 for the support of the debtor and any dependent of the debtor.

36 (j) The debtor’s right to receive, or property that is traceable to, an award under any crime
 37 victim reparation law.

38 (k) The debtor’s right to receive, or property that is traceable to, a payment or payments, not
 39 to exceed a total of \$10,000, on account of personal bodily injury of the debtor or an individual of
 40 whom the debtor is a dependent.

41 (L) The debtor’s right to receive, or property that is traceable to, a payment in compensation
 42 of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent,
 43 to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

44 (m) Veterans’ benefits and loans.

45 (n) The debtor’s right to receive an earned income tax credit under the federal tax laws and any

1 moneys that are traceable to a payment of an earned income tax credit under the federal tax laws.

2 (o) The debtor's interest, not to exceed [\$400] **\$1,000** in value, in any personal property. [*How-*
3 *ever,*] This exemption may not be used to increase the amount of any other exemption.

4 (2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of
5 which the execution issued to be of a value in excess of that allowed by the appropriate paragraph
6 of subsection (1) of this section, the officer seizing the property shall proceed to sell such property.
7 Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment
8 debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of sub-
9 section (1) of this section and shall apply the balance of the proceeds of sale on the execution. A
10 sale may not be made under such execution unless the highest bid made exceeds the appropriate
11 exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed
12 by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the
13 judgment creditor.

14 (3) If two or more members of a household are joint judgment debtors, each judgment debtor
15 shall be entitled to claim the exemptions in subsection (1)(a), (b), (c), (d) and (o) of this section in
16 the same or different properties. The exemptions provided by subsection (1)(a), (b), (c), (d), (j), (k) and
17 (o) of this section, when claimed for jointly owned property, may be combined at the option of the
18 debtors.

19 (4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or
20 other execution is issued to collect past due support as defined in ORS 18.600, 75 percent of unem-
21 ployment compensation benefits, workers' compensation benefits and other benefits paid to the
22 debtor by the United States, by the state or by a political subdivision of the state are exempt. The
23 exemption related to unemployment compensation benefits provided by this subsection is subject to
24 ORS 657.855. The exemption provided by this subsection applies without regard to whether the
25 payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to
26 a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made
27 under a settlement or judgment on account of personal bodily injury and the garnishment or other
28 execution is issued to collect past due support as defined in ORS 18.600, the lesser of 75 percent of
29 the payment or \$7,500 is exempt.

30 31 **FINANCIAL INSTITUTION FEES**

32
33 **SECTION 6.** ORS 18.790 is amended to read:

34 18.790. (1) Except as provided in subsection (2) of this section, the garnishor must pay a \$10
35 search fee at the time of delivery of any writ of garnishment on a financial institution, or at the time
36 a notice of garnishment is delivered to the financial institution under ORS 18.854. A separate search
37 fee must be delivered to the financial institution for each debtor if the writ is issued for more than
38 one debtor under ORS 18.607 (5). If the search fee required by this section is not paid:

39 (a) The garnishment is not effective to garnish any property of the debtor; and

40 (b) The financial institution need not file a garnishee response.

41 (2) The search fee provided for in this section need not be paid to a financial institution if the
42 debtor is an employee of the financial institution.

43 (3) Notwithstanding subsection (1) of this section, a financial institution may enter into an
44 agreement with any state agency authorized to garnish pursuant to ORS 18.645 or 18.854 for periodic
45 billing and payment of garnishee search fees required under this section.

1 (4) The right of a financial institution to receive the search fee provided for in this section does
 2 not in any way restrict or impair the right of the financial institution to charge and collect an ad-
 3 ditional garnishment processing fee from any debtor whose property the financial institution holds,
 4 or to whom the financial institution owes money. However, a financial institution may not charge
 5 or collect a garnishment processing fee in violation of ORS 652.610. If a financial institution charges
 6 a garnishment processing fee, the financial institution may collect the fee by deducting the amount
 7 of the fee from any amount that the financial institution owes to the debtor.

8 **(5) A financial institution may not charge or collect a garnishment processing fee for a**
 9 **writ of garnishment if none of the debtor's property held by the financial institution is sub-**
 10 **ject to garnishment.**

11 **ADJUSTMENTS TO GARNISHMENT FORMS**

12
 13
 14 **SECTION 7.** ORS 18.665 is amended to read:

15 18.665. (1) Upon receiving a writ of garnishment, the garnishee shall determine whether a
 16 garnishee response is required under ORS 18.680 and 18.682. The garnishee has no duty to determine
 17 whether the garnishor, sheriff or other person has complied with the requirements of ORS 18.600 to
 18 18.850, or to otherwise determine whether the writ of garnishment is valid. If a garnishee response
 19 is required, the garnishee must make a diligent effort to determine whether the garnishee is the
 20 employer of the debtor and whether the garnishee has possession, control or custody of any
 21 **garnishable** property of the debtor as described in ORS 18.615. If the garnishee has possession,
 22 control or custody of [*such*] **garnishable** property, the garnishee must hold the property, or as much
 23 of the property as is necessary to satisfy the garnishment, as required by ORS 18.600 to 18.850, and
 24 thereafter make delivery of the property in the manner required by ORS 18.600 to 18.850.

25 (2) The duty of a garnishee to hold and deliver property is not affected by joint ownership of
 26 the property. If a garnishee holds property that is owned, or appears to be owned, by the debtor and
 27 one or more other persons, the garnishee must still hold and deliver all of the property, or as much
 28 of the property as is necessary to satisfy the garnishment.

29 (3) If a single writ is issued for two or more joint debtors under ORS 18.607 (5) and the
 30 garnishable property in the garnishee's possession, control or custody exceeds the amount necessary
 31 to satisfy the garnishment, the garnishee must hold and deliver as much of the property as is nec-
 32 essary to satisfy the garnishment but may select, in the sole discretion of the garnishee, the property
 33 to hold and deliver without regard to which of the joint debtors owns the property.

34 **SECTION 8.** ORS 18.685 is amended to read:

35 18.685. A garnishee must note upon a garnishee response the date on which the garnishee re-
 36 ceived the writ of garnishment. The garnishee must also note upon the response the following in-
 37 formation and deliver the response in the manner provided by ORS 18.690:

38 (1) If the garnishee discovers that a voluntary or involuntary bankruptcy petition has been filed
 39 by or on behalf of the debtor and the petition was filed after the date shown on the face of the writ
 40 as the date on which the judgment was entered or otherwise first became subject to garnishment.

41 (2) If the garnishee does not employ the debtor and the garnishee does not have any garnishable
 42 property of the debtor in the possession, control or custody of the garnishee, the garnishee must so
 43 note on the response.

44 (3) If the garnishee employs the debtor, the garnishee must so state on the response and make
 45 all other responses required by this section or ORS 18.688. The garnishee must thereafter make

1 payment under the writ in the manner provided by ORS 18.735.

2 (4) If the garnishee has any cash belonging to the debtor **that is garnishable**, or the garnishee
3 owes any money to the debtor other than wages that is due as of the time the response is made, the
4 garnishee must so note on the response. The garnishee must make payment with the response in the
5 manner provided by ORS 18.730 of the amount subject to the garnishment, or of such amount as will
6 satisfy the garnishment, whichever amount is less.

7 (5) If the garnishee owes any money to the debtor other than wages that is not due as of the
8 time the response is made but that will become due within 45 days after the time the writ is deliv-
9 ered, the garnishee must so note on the response. When the money becomes due, the garnishee must
10 make payment in the manner provided by ORS 18.732 of the amount subject to the garnishment, or
11 of such amount as will satisfy the garnishment, whichever amount is less.

12 (6) Except as provided in ORS 18.618 (1)(a)(F), if the garnishee owes any money to the debtor
13 other than wages that is not due as of the time the response is made and the money will not become
14 due within 45 days after the time the writ is delivered, the garnishee must so note on the response.
15 The garnishee must thereafter comply with ORS 18.750 to 18.760.

16 (7) If the garnishee has any garnishable property of the debtor in the possession, control or
17 custody of the garnishee that is not cash or owed money, the garnishee must so note on the re-
18 sponse. The garnishee must thereafter comply with ORS 18.750 to 18.760.

19 (8) If the garnishee can determine from the writ that the garnishee may owe money to or hold
20 garnishable property of the debtor, but is not sure what or how much, the garnishee must so state
21 on the response and must state that the garnishee will file an amended response when the garnishee
22 determines what or how much money or property the garnishee owes or holds.

23 (9) If the garnishee determines that the writ of garnishment does not comply on its face with
24 ORS 18.600 to 18.850, or if the garnishee is unable to determine the identity of the debtor from the
25 information contained in the writ, the writ of garnishment is ineffective to garnish the property of
26 the debtor. The garnishee must so note on the response and provide an explanation.

27 (10) If, before delivering the garnishee response, the garnishee receives an order to withhold
28 income issued under ORS chapter 25 that applies to the income of the debtor, the garnishee must
29 so note on the response. The garnishee must provide details of the order to withhold income, in-
30 cluding the name of the agency serving the order, the date the order was served on the garnishee
31 and the amount to be withheld. If the garnishee employs the debtor, the garnishee must make the
32 responses required under ORS 18.688.

33 (11) If the garnishee receives notice of a challenge to the garnishment before delivering the re-
34 sponse, the garnishee must so note on the response. The garnishee must thereafter comply with ORS
35 18.708.

36 **SECTION 9.** ORS 18.835 is amended to read:

37 18.835. A garnishee response must be in substantially the following form:

38 _____

39

40 _____ COURT

41 COUNTY OF _____

42

43 _____)

44 Plaintiff,) GARNISHEE

45) RESPONSE

1 vs.) Case No. _____
2)
3 _____)
4 Defendant.)
5

6 The writ of garnishment was delivered to me on the _____ day of _____, 2____. The following
7 responses are accurate and complete as of that date.
8

9
10 PART I: DEBTOR'S PROPERTY
11 GENERALLY
12 (ALL GARNISHEES MUST FILL OUT
13 THIS PORTION OF THE RESPONSE)
14

15 Place a check in front of all the following statements that apply. You may need to check more than
16 one statement.
17

18 — I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or
19 on behalf of the Debtor after the date shown on the face of the writ as the date on which
20 the judgment was entered against the Debtor or after the debt otherwise became subject to
21 garnishment. (You need not complete any other part of this response, but you must sign the
22 response and deliver it in the manner specified in Step 2 of the Instructions to Garnishee
23 form.)
24

25 — I do not employ the Debtor, I do not have in my possession, control or custody any personal
26 property of the Debtor, and I do not owe any debts or other obligations to the Debtor.
27

28 — I employ the Debtor. (You must complete Part II of this response.)
29

30 — I have in my possession, control or custody **garnishable** money that belongs to the Debtor
31 (other than wages), or I owe a debt or other obligation to the Debtor (other than wages)
32 that is due as of the time of this response. I am forwarding this money, or enough of it to
33 satisfy the garnishment, to the Garnishor.
34

35 — I owe a debt or other obligation to the Debtor (other than wages) that was not due as of
36 the time of this response but will become due within 45 days after the writ was delivered
37 to me. I will forward the money, or enough of it to satisfy the garnishment, to the
38 Garnishor when the debt or other obligation becomes due.
39

40 — I owe the following debt or other obligation to the Debtor (other than wages) that will not
41 become due within 45 days after the date that the writ was delivered to me. I will not make
42 any payments on the debt or obligation until I receive instructions from the Sheriff or until
43 30 days have passed from the date on which I deliver this response. (See Instructions to
44 Garnishee form.)
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— I have in my possession, control or custody the following personal property (other than money) that belongs to the Debtor. I will hold all of the property for the Garnishor until I receive instructions from the Sheriff or until 30 days have passed from the date on which I deliver this response. (See Instructions to Garnishee form.)

— I may owe money to or hold property of the Debtor, but I am not sure what or how much it might be. (You must provide an explanation in the following space and you must deliver an amended response when you find out. You must deliver an amended response even if you find out that you have no property of the Debtor or owe no money to the Debtor.)

— **(FINANCIAL INSTITUTIONS ONLY) We hold one or more accounts for the Debtor, of which \$_____ is not subject to garnishment under section 2 of this 2009 Act. We are forwarding all other garnishable amounts, or enough of it to satisfy the garnishment, to the Garnishor.**

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— The writ of garnishment delivered to me, on its face, does not comply with the Oregon laws governing writs of garnishment, or I cannot determine the identity of the Debtor from the information in the writ. (You must provide an explanation in the following space.)

— I have received an order to withhold income that applies to the income of the Debtor. The order to withhold income has priority over the writ of garnishment, and compliance with the order will reduce or eliminate the money that I would otherwise deliver under the writ. (Provide details, including the name of the agency serving the order to withhold income, the date the order was served on you and the amount to be withheld. If you employ the Debtor, you must still complete Part II of this response.)

— I have received notice of a challenge to the garnishment. I will deliver to the court administrator all money that I would otherwise deliver to the Garnishor. (See Step 3 of Instructions to Garnishee form.)

— Other (Explain)

PART II: DEBTOR'S EMPLOYER
(GARNISHEES WHO EMPLOY THE
DEBTOR MUST FILL OUT THIS
PORTION OF THE RESPONSE)

Place a check in front of all the following statements that apply. You may need to check more than one statement.

NOTE: THE LAW PROHIBITS DISCHARGE OF THE DEBTOR FROM EMPLOYMENT BY REASON OF GARNISHMENT.

— I employ the Debtor. The Debtor is paid on a _____ basis (insert "weekly," "monthly" or other pay period). Wages will next be payable to the Debtor on the ____ day of _____, 2____. I will complete a Wage Exemption Calculation form for each payment of wages that is made during the 90-day period immediately following the date that the writ of garnishment was delivered to me. I will also complete a Wage Exemption Calculation form for the payday immediately following the end of the 90-day period. I will forward to the Garnishor on each of these occasions those wages calculated to be subject to garnishment, or enough of those wages to satisfy the garnishment.

— I had already received a writ of garnishment from another Garnishor before this writ was delivered to me. Under Oregon law, the previous writ has priority. The previous writ will terminate on the ____ day of _____, 2____.

I hereby certify that I have fully and accurately completed this garnishee response.

Dated _____, 2____

Name of Garnishee

Signature

Telephone number _____

Fax number (if available) _____

Address

SECTION 10. ORS 18.838 is amended to read:

18.838. Instructions to garnishees must be in substantially the following form:

INSTRUCTIONS TO GARNISHEE

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3
4
5 Except as specifically provided in these instructions, you must complete and deliver the
6 Garnishee Response within seven calendar days after you receive the writ of garnishment. If the
7 writ does not comply with Oregon law, the writ is not effective to garnish any property of the
8 Debtor, but you still must complete and deliver the Garnishee Response. You must complete and
9 deliver the response even though you cannot determine from the writ whether you hold any property
10 or owe any debt to the Debtor. If the seventh calendar day is a Saturday, Sunday or legal holiday,
11 you must deliver your response on or before the next following day that is not a Saturday, Sunday
12 or legal holiday.

13
14 The writ is not effective, and you need not make a Garnishee Response, if:

- 15
16 • You do not receive the writ within 60 days after the date of issuance shown on the face of
17 the writ.
- 18
19 • You do not receive an original writ of garnishment or a copy of the writ.

20
21 Statutes that may affect your rights and duties under the writ can be found in ORS 18.600 to
22 18.850.

23
24 NOTE: The Garnishor may be the Creditor, the attorney for the Creditor or some other person
25 who is authorized by law to issue the writ of garnishment. See the writ to determine who the
26 Garnishor is.

27
28 STEP 1. FILL OUT THE GARNISHEE RESPONSE.

29
30 All garnishees who are required to deliver a garnishee response must fill in Part I of the
31 Garnishee Response. Garnishees who employ the Debtor must also fill in Part II of the response.
32 You should keep a copy of the response for your records.

33
34 Completing Part I of the Garnishee Response. If you discover before you deliver your response
35 that a bankruptcy petition has been filed by or on behalf of the Debtor, and the bankruptcy petition
36 was filed after a judgment was entered against the Debtor or after the debt otherwise became sub-
37 ject to garnishment (see the date specified in the writ), you must put a check by the appropriate
38 statement in Part I. If a bankruptcy petition has been filed, you should not make any payments to
39 the Garnishor unless the court orders otherwise. You need not complete any other part of the re-
40 sponse, but you still must sign the response and deliver it in the manner described in Step 2 of these
41 instructions.

42 In all other cases you must list in Part I all money and personal property of the Debtor that is
43 in your possession, control or custody at the time of delivery of the writ. You must also list all debts
44 that you owe to the Debtor, whether or not those debts are currently due (e.g., money loaned to you
45 by the Debtor that is to be repaid at a later time).

1 If you are the employer of the Debtor at the time the writ is delivered to you, you must put a
2 check by the appropriate statement in Part I. In addition, you must complete Part II of the response.

3 If you believe that you may hold property of the Debtor or that you owe a debt to the Debtor,
4 but you are not sure, you must put a check by the appropriate statement and provide an explana-
5 tion. When you find out what property you hold that belongs to the Debtor, or you find out whether
6 you owe money to the Debtor and how much, you must prepare and deliver an amended response.
7 You must do this even if you find out that you have no property of the Debtor or that you do not
8 owe anything to the Debtor.

9 If you determine that the writ, on its face, does not comply with Oregon laws governing writs
10 of garnishment, or if you are unable to determine the identity of the Debtor from the information
11 in the writ, then the writ is not effective to garnish any property of the Debtor. You must put a
12 check by the appropriate statement in Part I and provide an explanation. You still must complete
13 the response and deliver the response in the manner described in Step 2 of these instructions.

14 If you have received an order to withhold income that applies to the income of the Debtor and
15 that order has priority over the garnishment, and if compliance with the order will reduce or elim-
16 inate the money or property that you would otherwise deliver under the garnishment, you must put
17 a check by the appropriate statement in Part I. You still must fill out the remainder of the response
18 and deliver the response in the manner described in Step 2 of these instructions. If you employ the
19 Debtor, you still must complete Part II of the response.

20 If you receive notice of a challenge to the garnishment before you send your response, you must
21 complete and deliver your response as otherwise required by these instructions. However, see Step
22 3 of these instructions regarding payment of money or delivery of property after receipt of notice
23 of a challenge to the garnishment.

24 If you owe a debt to the Debtor and the Debtor owes a debt to the holder of an underlying lien
25 on your property, you may be able to offset the amount payable to the underlying lienholder. See
26 ORS 18.620. You must note that you have made the offset in Part I of the response (under
27 "Other") and specify the amount that was offset.

28
29 Completing Part II of the Garnishee Response (employers only). You must fill in Part II of the
30 response if you employ the Debtor on the date the writ of garnishment is delivered to you, or if you
31 previously employed the Debtor and still owe wages to the Debtor on the date the writ is delivered
32 to you.

33
34 Wages affected. Except as provided below, the writ garnishes all wages that you owe to the
35 Debtor for work performed before the date you received the writ, even though the wages will not
36 be paid until a later date. The writ also garnishes all wages that are attributable to services per-
37 formed during the 90-day period following the date you received the writ, even though you would
38 not pay the Debtor for all or part of those services until after the end of the 90-day period. Wages
39 subject to garnishment under the writ include all amounts paid by you as an employer, whether on
40 an hourly, weekly or monthly basis, and include commission payments and bonuses.

41
42 Example 1: Debtor A is employed by you and is paid a monthly salary on the first day of
43 each month. You receive a writ of garnishment on July 17. The writ garnishes all wages
44 that you owe to Debtor A for work performed on or before July 17. If Debtor A was paid
45 on July 1 for services performed in the month of June, the writ garnishes Debtor A's salary

1 for the period beginning July 1 and ending October 15 (90 days after receipt of the writ).

2
3 The writ does not garnish any wages you owe to a Debtor for a specific pay period if:

4 (a) The writ is delivered to you within two business days before the Debtor's normal payday for
5 the pay period;

6 (b) When the writ is delivered to you, the Debtor's wages are paid by direct deposit to a finan-
7 cial institution, or you use an independent contractor as payroll administrator for your payroll; and

8 (c) Before the writ was delivered to you, you issued instructions to the financial institution or
9 the payroll administrator to pay the Debtor for the pay period.

10 If any wages are not garnishable by reason of the issuance of instructions to a financial insti-
11 tution or a payroll administrator as described above, you must so note in the Garnishee Response.
12 Thereafter, you must pay to the Garnishor all wages that are subject to garnishment that are at-
13 tributable to services performed by the Debtor during the 90-day period following the date you re-
14 ceived the writ.

15
16 Calculation of wages subject to garnishment. A Wage Exemption Calculation form is attached
17 to the writ of garnishment. You must use this form to calculate the amount of the Debtor's wages
18 that is subject to garnishment. You should read the instructions printed on the Wage Exemption
19 Calculation form to determine the normal wage exemption and the minimum wage exemption for
20 each payment you make under the writ.

21 A Wage Exemption Calculation form must be sent with the first payment you make under the
22 writ. For the 90-day period during which the writ is effective, you must also fill out and return a
23 Wage Exemption Calculation form with a subsequent payment any time the initial calculation
24 changes. Finally, you must fill out and return a Wage Exemption Calculation form with the final
25 payment that you make under the writ.

26
27 Payment of amount subject to garnishment. Payments under the writ must be made at the fol-
28 lowing times, unless the amount owing on the judgment or other debt is fully paid before the final
29 payment is made or the writ is released:

30 (a) You must make a payment to the Garnishor of all wages subject to garnishment at the time
31 you next pay wages to the Debtor. Complete the wage exemption computation, using the Wage Ex-
32 emption Calculation form, to determine the portion of the Debtor's wages that is subject to
33 garnishment. Be sure to adjust the minimum exemption amount for any payment that covers less
34 than a full pay period. You must include a copy of the Wage Exemption Calculation form with this
35 first payment.

36
37 Example 2: Using the facts given in Example 1, when you next make any payment of wages
38 to Debtor A after you receive the writ on July 17, you must complete the Wage Exemption
39 Calculation form and send the form to the Garnishor along with all amounts determined to
40 be subject to garnishment that are attributable to the period covered by the payment. If you
41 pay Debtor A on August 1, the payment will be for all wages attributable to the period be-
42 ginning July 1 and ending July 31.

43
44 (b) Unless the writ of garnishment is satisfied or released, during the 90-day period following the
45 date you received the writ, you must pay to the Garnishor all wages that are determined to be

1 subject to garnishment whenever you issue a paycheck to the Debtor. If the Debtor is paid on a
2 weekly basis, you must make payment under the writ on a weekly basis. If the Debtor is paid on a
3 monthly basis, you must make payment under the writ on a monthly basis. If the amount paid to the
4 Debtor varies from paycheck to paycheck, or changes at any time from the amount being paid at the
5 time the writ was delivered to you, you must perform a new wage exemption computation to deter-
6 mine the amount of wages subject to garnishment under the writ. You must send a copy of the new
7 Wage Exemption Calculation form with your payment to the Garnishor.

8
9 Example 3: Using the facts given above, as you make each subsequent payment of wages to
10 Debtor A you must make a payment of that portion of the Debtor's wages that are subject
11 to garnishment. If you continue to pay Debtor A on the first of each month, payments must
12 be made on September 1 and October 1.

13
14 (c) Upon the expiration of the 90-day period, you must make a final payment to the Garnishor
15 for all wages that were owing to the Debtor for the work performed by the Debtor through the 90th
16 day following your receipt of the writ. This payment may be made at the time of the Debtor's next
17 paycheck. You will need to complete another Wage Exemption Calculation form to determine the
18 amount of the wages subject to garnishment.

19
20 Example 4: Using the facts given above, you must make a final payment for the wages owing
21 to Debtor A for the period beginning October 1 and ending October 15. You may make this
22 payment at the time you issue Debtor A's paycheck on November 1, but you must make the
23 payment at any time you issue a paycheck to Debtor A after October 15. Be sure that in
24 completing the wage exemption computation for the final payment you adjust the minimum
25 exemption amount to take into account the fact that the period covered is only 15 days of
26 the full month (see instructions on Wage Exemption Calculation form).

27
28 Processing fee. You may collect a \$1 processing fee for each week of wages, or fraction of a
29 week of wages, for which a payment is made under the writ. The fee must be collected after you
30 make the last payment under the writ. The fee must be withheld from the wages of the debtor, and
31 is in addition to the amounts withheld for payment to the garnishor under the writ or under any
32 other writ you have received.

33
34 If you receive more than one writ of garnishment. If you receive a second writ of garnishment
35 for the same Debtor from another Garnishor, the first writ will have priority for wages. The priority
36 of the first writ lasts for the 90-day period following delivery of that writ to you, or until the first
37 writ is paid in full, whichever comes first. In your response to the second writ, you must put a check
38 by the appropriate statement in Part II and indicate the date on which the first writ will expire (90
39 days after the date you received the writ). You should make no payments under the second writ
40 until expiration of the first writ. The expiration date of the second writ is 90 days after the date
41 you received the second writ; the expiration date is not affected by any delay in payment attribut-
42 able to the priority of the first writ.

43
44 STEP 2. DELIVER THE GARNISHEE RESPONSE.

1 You must deliver your Garnishee Response and copies of the response in the manner provided
2 in this step. The response and copies may be mailed or delivered personally.

3
4 You must complete and deliver the Garnishee Response within seven calendar days after you
5 receive the writ of garnishment. If the seventh calendar day is a Saturday, Sunday or legal holiday,
6 you must deliver your response on or before the next following day that is not a Saturday, Sunday
7 or legal holiday.

8
9 If you are required to hold any property under the writ or make any payment under the writ,
10 either at the time of making your response or later, you must:

11 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
12 the writ under Important Addresses.

13 (b) Send a copy of your Garnishee Response to the court administrator at the address indicated
14 on the writ under Important Addresses.

15 (c) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
16 under Important Addresses.

17
18 If you are not required to hold any property under the writ or make any payment under the
19 writ, either at the time of making your response or later, you must:

20 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
21 the writ under Important Addresses.

22 (b) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
23 under Important Addresses.

24
25 STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

26
27 As long as the writ is in effect, you may be liable to the Creditor if you pay any debt or turn
28 over any property to the Debtor except as specifically allowed by law. If you have any money or
29 property of the Debtor in your possession, control or custody at the time of delivery of the writ, or
30 owe any debt to the Debtor, you must pay the money or hold the property as required by this step.
31 Exceptions to this requirement are listed below.

32
33 IF YOU ARE HOLDING MONEY FOR THE DEBTOR OR OWE A DEBT THAT IS CUR-
34 RENTLY DUE, you must pay the money to the Garnishor with your response. You must send your
35 payment to the Garnishor at the address indicated on the writ under Important Addresses. Make
36 your check payable to the Garnishor.

37
38 IF YOU OWE A DEBT TO THE DEBTOR THAT WILL BECOME DUE WITHIN 45 DAYS
39 AFTER THE DATE YOU RECEIVED THE WRIT, you must send your payment directly to the
40 Garnishor at the address provided in the writ when the debt becomes due. Make your check payable
41 to the Garnishor.

42
43 IF YOU ARE HOLDING PROPERTY THAT BELONGS TO THE DEBTOR, OR OWE A DEBT
44 TO THE DEBTOR THAT WILL NOT BECOME DUE WITHIN 45 DAYS AFTER THE DATE YOU
45 RECEIVED THE WRIT, you must keep the property or debt in your possession, control or custody

1 until you receive written notice from the Sheriff. The Sheriff's notice will tell you what to do with
2 the property or debt. If you have followed all of the instructions in the writ and you receive no
3 notice from the Sheriff within 30 days after the date on which you delivered your Garnishee Re-
4 sponse, you may treat the writ as being of no further force or effect.

5
6 **EXCEPTIONS:**

7
8 1. Challenge to garnishment or specific directions from court. If you are making any payments
9 under the garnishment and before making a payment you receive notice of a challenge to the
10 garnishment from the court, or receive a specific direction from the court to make payments to the
11 court, you must send or deliver the payment directly to the court administrator. If the money is
12 currently due when you receive the notice, send the payment promptly to the court. If the payment
13 is for a debt that is payable within 45 days after you receive the writ, make the payment to the
14 court promptly when it becomes due. If you make payment by check, make the check payable to the
15 State of Oregon. Because you may be liable for any payment that does not reach the court, it is
16 better not to send cash by mail.

17 A challenge to the garnishment does not affect your duty to follow the instructions you receive
18 from the Sheriff for property that belongs to the Debtor and debts that you owe to the Debtor that
19 do not become due within 45 days.

20
21 2. Previous writ of garnishment. If you receive a second writ of garnishment for the same Debtor
22 from another Garnishor, the first writ will have priority and you need not make payments or deliver
23 property under the second writ to the extent that compliance with the first writ will reduce or
24 eliminate the payment of money or delivery of property that you would otherwise make under the
25 garnishment. You must still deliver a Garnishee Response to the second writ, and must commence
26 payment under the second writ as soon as the first writ is satisfied or expires.

27
28 3. Offset for payment of underlying lien. If you owe a debt to the Debtor and the Debtor owes
29 a debt to the holder of an underlying lien on your property, you may be able to offset the amount
30 payable to the underlying lienholder. See ORS 18.620.

31
32 4. Subsequent events:

33
34 (a) Bankruptcy. If you make your response and then discover that a voluntary or involuntary
35 bankruptcy petition has been filed by or on behalf of the Debtor after the judgment was entered
36 against the Debtor or after the debt otherwise became subject to garnishment (see date in writ), you
37 may not make any further payments or delivery of property under the writ unless the court orders
38 otherwise. If you have not delivered all property that is subject to garnishment under this writ when
39 you discover that a bankruptcy petition has been filed, you must mail the following notice to the
40 Garnishor and to the Debtor.

41
42 (b) Order to withhold income. If you make your response and then receive an order to withhold
43 income that has priority over the writ, you may make payments or deliver property under the writ
44 only after payment of the amounts required under the order to withhold income. If you have not
45 delivered all property that is subject to garnishment under this writ when you receive an order to

1 withhold income that has priority, you must mail the following notice to the Garnishor and to the
2 Debtor.

3 _____
4
5 SUPPLEMENTAL GARNISHEE
6 RESPONSE
7

8 TO: The Garnishor and the Debtor
9

10 RE: Writ of garnishment received _____, 2__ (date), in the case of _____ (Plaintiff)
11 vs. _____ (Defendant), Circuit Court of _____ County, Oregon, Case No. _____
12

13 The undersigned Garnishee furnished a Garnishee Response to this writ of garnishment on
14 _____, 2__ (date). Since that time (check appropriate statement):
15

16 ___ I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or
17 on behalf of the Debtor after the judgment was entered against the Debtor or after the debt
18 otherwise became subject to garnishment.
19

20 ___ I have received an order to withhold income of the Debtor by reason of a support obligation.
21 Under ORS 25.375, the order to withhold income has priority over any other legal process
22 under Oregon law against the same income. The withholding of income pursuant to the or-
23 der to withhold income might reduce or eliminate subsequent payments under the
24 garnishment. (Provide details, including the name of the agency serving the order to with-
25 hold, the date the order was served on you and the amounts to be withheld.)
26

27 Dated _____, 2__
28

29 _____
30 Name of Garnishee
31

32 _____
33 Signature
34

35 _____
36 Address
37 _____

38
39 SPECIAL INSTRUCTIONS FOR BANKS
40 AND OTHER FINANCIAL INSTITUTIONS
41

42 **If you hold one or more accounts for the debtor, an amount equal to the lesser of \$2,500**
43 **or the total balance in the debtor's accounts is not subject to garnishment if you can rea-**
44 **sonably determine that any of the following amounts were deposited in one of those accounts**
45 **by direct deposit or electronic payment within 45 days before this writ was delivered to you:**

- 1 (a) **Payments from a public or private retirement plan;**
- 2 (b) **Payments from the Social Security Administration;**
- 3 (c) **Public assistance payments from the state or a state agency;**
- 4 (d) **Unemployment compensation payments from the state or a state agency;**
- 5 (e) **Black lung benefits from the United States Department of Labor;**
- 6 (f) **Veteran benefits payments from the Veterans Benefits Administration; and**
- 7 (g) **Workers' compensation payments from a workers' compensation carrier.**

8

9 If the Garnishor fails to pay the search fee required by ORS 18.790 and you do not employ the
 10 Debtor, you are not required to deliver a Garnishee Response and you may deal with any property
 11 of the Debtor as though the garnishment had not been issued.

12

13 If the Debtor owes a debt to you that was due at the time you received the writ of garnishment,
 14 you may be able to offset the amount of that debt. See ORS 18.795. You must note that you have
 15 made the offset in Part I of the Garnishee Response (under "Other") and specify the amount that
 16 was offset.

17

18 Before making a payment under the writ, you may first deduct any processing fee that you are
 19 allowed under ORS 18.790. **You may not deduct a processing fee if all amounts held by you for**
 20 **the debtor are not subject to garnishment.**

21

22 You need not deliver any property contained in a safe deposit box unless the Garnishor pays
 23 you in advance for the costs that will be incurred in gaining entry to the box. See ORS 18.792.

24

25

26 **SECTION 11.** ORS 18.845 is amended to read:

27 18.845. A notice of exemptions form must be in substantially the form set forth in this section.
 28 Nothing in the notice form described in this section is intended to expand or restrict the law re-
 29 lating to exempt property. A determination as to whether property is exempt from execution, at-
 30 tachment and garnishment must be made by reference to other law. The form provided in this
 31 section may be modified to provide more information or to update the notice based on subsequent
 32 changes in exemption laws.

33

34

35 **NOTICE OF EXEMPT PROPERTY**
 36 **AND INSTRUCTIONS FOR**
 37 **CHALLENGE TO GARNISHMENT**

38

39 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be
 40 reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
 41 are enclosed.

42 **YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-**
 43 **FULLY.**

44 State and federal law specify that certain property may not be taken. Some of the property that
 45 you may be able to get back is listed below.

- 1 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
 2 amounts is greater:
- 3 (a) 75 percent of your take-home wages; or
 4 (b) \$196 per workweek.
- 5 (2) Social Security benefits.
 6 (3) Supplemental Security Income (SSI).
 7 (4) Public assistance (welfare).
 8 (5) Unemployment benefits.
 9 (6) Disability benefits (other than SSI benefits).
 10 (7) Workers' compensation benefits.
- 11 (8) **All Social Security benefits and Supplemental Security Income benefits, and up to**
 12 **\$7,500 in** exempt wages, [*Social Security benefits (other than SSI),*] **retirement benefits**, welfare,
 13 unemployment benefits and disability benefits, **that are held in a bank account** [*when placed in a*
 14 *checking or savings account (up to \$7,500)*]. **You should attach copies of bank statements to the**
 15 **Challenge to Garnishment form if you claim this exemption.**
- 16 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
 17 for your support or the support of any of your dependents.
- 18 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
 19 by your spouse, parent or child. The value of the homestead is exempt up to the following amounts:
- 20 (a) For a manufactured dwelling or floating home located on land that is not owned by you,
 21 \$20,000. If you jointly own the manufactured dwelling or floating home with another person who is
 22 also liable on the debt, \$27,000.
- 23 (b) For a manufactured dwelling or floating home located on land that is owned by you, \$23,000.
 24 If you jointly own the manufactured dwelling or floating home with another person who is also liable
 25 on the debt, \$30,000.
- 26 (c) For any other homestead, \$30,000. If you jointly own the homestead with another person who
 27 is also liable on the debt, \$39,600.
- 28 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
 29 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
 30 another homestead.
- 31 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
 32 to exceed \$3,000.
- 33 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.
 34 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
 35 occupation, with a combined value not to exceed \$3,000.
- 36 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
 37 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
 38 \$1,800.
- 39 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
 40 and their food for 60 days.
- 41 (18) Provisions and fuel for your family for 60 days.
- 42 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
 43 may not exceed \$1,000.
- 44 (20) Public or private pensions.
 45 (21) Veterans' benefits and loans.

1 (22) Medical assistance benefits.

2 (23) Health insurance proceeds and disability proceeds of life insurance policies.

3 (24) Cash surrender value of life insurance policies not payable to your estate.

4 (25) Federal annuities.

5 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
6 emption as wages).

7 (27) Professionally prescribed health aids for you or any of your dependents.

8 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.

9 (29) Your right to receive, or property traceable to:

10 (a) An award under any crime victim reparation law.

11 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
12 jury suffered by you or an individual of whom you are a dependent.

13 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
14 are or were a dependent, to the extent reasonably necessary for your support and the support of
15 any of your dependents.

16 (30) Amounts paid to you as an earned income tax credit under federal tax law.

17 *(31) Interest in personal property to the value of [\$400] **\$1,000**, but this cannot be used to in-
18 crease the amount of any other exemption.

19 (32) Equitable interests in property.

20 (33) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

21 (34) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
22 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
23 Calculation form.

24
25 Note: If two or more people in your household owe the claim or judgment, each of them may
26 claim the exemptions marked by an asterisk (*).

27
28
29 **SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND**
30 **SPOUSAL SUPPORT.** Some property that may not otherwise be taken for payment against the debt
31 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
32 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
33 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
34 obligation.

35
36 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**
37 You may seek to reclaim your exempt property by doing the following:

38 (1) Fill out the Challenge to Garnishment form that you received with this notice.

39 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
40 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
41 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
42 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
43 other money or property is exempt, or claim that the property is not subject to garnishment, you
44 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
45 showing that your challenge is made on time, so you should keep records showing when the chal-

1 lence was mailed or delivered.

2 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
3 before applying it to the Creditor’s use. You may be able to keep the property from being used by
4 the Creditor by promptly following (1) and (2) above.

5
6 You should be prepared to explain your exemption in court. If you have any questions about the
7 garnishment or the debt, you should see an attorney.

8 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
9 ING PURPOSES:

10 (1) To claim such exemptions from garnishment as are permitted by law.

11 (2) To assert that property is not garnishable property under ORS 18.618.

12 (3) To assert that the amount specified in the writ of garnishment as being subject to
13 garnishment is greater than the total amount owed.

14
15 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
16 VALIDITY OF THE DEBT.

17 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
18 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
19 that you could be subject to are listed in ORS 18.715.

20 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
21 payments under the garnishment to the court, and the Garnishor may be required to pay to the
22 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
23 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
24 their responsibilities, see ORS 18.705 and 18.708.

25 _____
26
27 **SECTION 12.** ORS 18.896 is amended to read:

28 18.896. (1) The challenge to execution form described in this section does not expand or restrict
29 the law relating to exempt property. A determination as to whether property is exempt from at-
30 tachment or execution must be made by reference to other law. The form provided in this section
31 may be modified to provide more information or to update the notice based on subsequent changes
32 in exemption laws.

33 (2) A challenge to execution form must be in substantially the following form:
34 _____

35
36 _____ COURT
37 COUNTY OF _____

38
39 _____) CHALLENGE TO
40 Plaintiff,) EXECUTION
41)
42 vs.) Case No. _____
43)
44 _____)
45 Defendant.)

1 THIS FORM MAY BE USED BY THE DEBTOR ONLY FOR THE FOLLOWING PURPOSES:

2 (1) To claim such exemptions from execution as are permitted by law.

3 (2) To assert that the amount specified in the writ of execution as being subject to execution is
4 greater than the total amount owed.

5
6 THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM
7 AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

8
9 THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

10
11 I/We claim that the following described property or money is exempt from execution:
12 _____
13 _____
14 _____

15
16
17 I/We believe this property is exempt from execution because (the Notice of Exempt Property at
18 the end of this form describes most types of property that you can claim as exempt from execution):
19 _____
20 _____
21 _____

22
23
24 I am a person other than the Debtor and I have the following interest in the property:
25 _____
26 _____
27 _____

28
29
30 Name _____ Name _____
31 Signature _____ Signature _____
32 Address _____ Address _____
33 _____
34 Telephone Telephone
35 Number _____ Number _____
36 (Required) (Required)

37
38
39 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
40 You may seek to reclaim your exempt property by doing the following:

41 (1) Fill out the Challenge to Execution form that you received with this notice.
42 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
43 shown on the writ of execution.

44 (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the
45 address shown on the writ of execution.

1 You should be prepared to explain your exemption in court. If you have any questions about the
2 execution or the debt, you should see an attorney.

3
4 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR THE FOLLOWING
5 PURPOSES:

6 (1) To claim such exemptions from execution as are permitted by law.

7 (2) To assert that the amount specified in the writ of execution as being subject to execution is
8 greater than the total amount owed.

9
10 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
11 VALIDITY OF THE DEBT.

12
13 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
14 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
15 to are listed in ORS 18.899.

16
17 NOTICE OF EXEMPT PROPERTY

18
19 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may
20 be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
21 are enclosed.

22 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
23 FULLY.

24 State and federal law specify that certain property may not be taken. Some of the property that
25 you may be able to get back is listed below.

26 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
27 amounts is greater:

28 (a) 75 percent of your take-home wages; or

29 (b) \$196 per workweek.

30 (2) Social Security benefits.

31 (3) Supplemental Security Income (SSI).

32 (4) Public assistance (welfare).

33 (5) Unemployment benefits.

34 (6) Disability benefits (other than SSI benefits).

35 (7) Workers' compensation benefits.

36 (8) **All Social Security benefits and Supplemental Security Income benefits, and up to**
37 **\$7,500 in** exempt wages, [*Social Security benefits (other than SSI)*], **retirement benefits**, welfare,
38 unemployment benefits and disability benefits, **that are held in a bank account** [*when placed in a*
39 *checking or savings account (up to \$7,500)*].

40 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
41 for your support or the support of any of your dependents.

42 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
43 by your spouse, parent or child. The value of the homestead is exempt up to the following amounts:

44 (a) For a manufactured dwelling or floating home located on land that is not owned by you,
45 \$20,000. If you jointly own the manufactured dwelling or floating home with another person who is

1 also liable on the debt, \$27,000.

2 (b) For a manufactured dwelling or floating home located on land that is owned by you, \$23,000.
 3 If you jointly own the manufactured dwelling or floating home with another person who is also liable
 4 on the debt, \$30,000.

5 (c) For any other homestead, \$30,000. If you jointly own the homestead with another person who
 6 is also liable on the debt, \$39,600.

7 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
 8 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
 9 another homestead.

10 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
 11 to exceed \$3,000.

12 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.

13 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
 14 occupation, with a combined value not to exceed \$3,000.

15 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.

16 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
 17 \$1,800.

18 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
 19 and their food for 60 days.

20 (18) Provisions and fuel for your family for 60 days.

21 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
 22 may not exceed \$1,000.

23 (20) Public or private pensions.

24 (21) Veterans' benefits and loans.

25 (22) Medical assistance benefits.

26 (23) Health insurance proceeds and disability proceeds of life insurance policies.

27 (24) Cash surrender value of life insurance policies not payable to your estate.

28 (25) Federal annuities.

29 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
 30 emption as wages).

31 (27) Professionally prescribed health aids for you or any of your dependents.

32 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.

33 *(29) Your right to receive, or property traceable to:

34 *(a) An award under any crime victim reparation law.

35 *(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
 36 jury suffered by you or an individual of whom you are a dependent.

37 *(c) A payment in compensation of loss of future earnings of you or an individual of whom you
 38 are or were a dependent, to the extent reasonably necessary for your support and the support of
 39 any of your dependents.

40 (30) Amounts paid to you as an earned income tax credit under federal tax law.

41 (31) Interest in personal property to the value of [~~\$400~~] **\$1,000**, but this cannot be used to in-
 42 crease the amount of any other exemption.

43 (32) Equitable interests in property.

44 Note: If two or more people in your household owe the claim or judgment, each of them may
 45 claim the exemptions marked by an asterisk (*).

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SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

APPLICABILITY

SECTION 13. Section 2 of this 2009 Act and the amendments to ORS 18.345, 18.348, 18.618, 18.665, 18.685, 18.790, 18.835, 18.838, 18.845 and 18.896 by sections 3 to 12 of this 2009 Act apply only to writs of garnishment and writs of execution issued on or after the effective date of this 2009 Act.

MISCELLANEOUS

SECTION 14. The unit captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.
