

SENATE AMENDMENTS TO SENATE BILL 519

By COMMITTEE ON WORKFORCE

March 15

1 On page 1 of the printed bill, line 2, after “18.896” insert a period and delete the rest of the line
2 and delete line 3.

3 Delete lines 5 through 31 and delete pages 2 through 11 and insert:

4 “**SECTION 1.** ORS 18.385 is amended to read:

5 “18.385. (1) Except as provided in this section, 75 percent of the disposable earnings of an indi-
6 vidual are exempt from execution.

7 “(2) The disposable earnings of an individual are exempt from execution to the extent that
8 payment under a garnishment would result in net disposable earnings for an individual of less than
9 the following amounts:

10 “(a) [~~\$218~~] **\$254** for any period of one week or less;

11 “(b) [~~\$435~~] **\$509** for any two-week period;

12 “(c) [~~\$468~~] **\$545** for any half-month period;

13 “(d) [~~\$936~~] **\$1,090** for any one-month period; and

14 “(e) For any other period longer than one week, [~~\$218~~] **\$254** multiplied by that fraction produced
15 by dividing the number of days for which the earnings are paid by seven. The amount calculated
16 under this paragraph must be rounded to the nearest dollar.

17 “(3) If an individual is paid for a period shorter than one week, the exemption calculated under
18 subsection (2) of this section may not exceed [~~\$218~~] **\$254** for any one-week period.

19 “(4) An employer shall deduct from the amount of disposable earnings determined to be nonex-
20 empt under subsections (1) to (3) of this section any amounts withheld from the individual’s earnings
21 for the same period of time under an order issued pursuant to ORS 25.378, 419B.408 or 419C.600 or
22 ORS chapter 110. The employer shall make payment under a garnishment only of those amounts
23 remaining after the deduction is made.

24 “(5) Subsections (1) to (4) of this section do not apply to:

25 “(a) Any order of a court of bankruptcy.

26 “(b) Any debt due for federal tax.

27 “(6) Subsections (2) to (4) of this section do not apply to any debt due for state tax. Subsection
28 (1) of this section does not apply to a debt due for state tax if a state agency issues a special notice
29 of garnishment under ORS 18.855 (6).

30 “(7) A court may not make, execute or enforce any order or process in violation of this section.

31 “(8) Any waiver by an individual of the provisions of this section is void.

32 “(9) An employer may not discharge any individual because the individual has had earnings
33 garnished.

34 “**SECTION 2.** ORS 18.840 is amended to read:

35 “18.840. A wage exemption calculation form must be delivered to the garnishee with each writ

1 of garnishment. A wage exemption calculation form must be in substantially the following form:

2 “

3
4 **WAGE EXEMPTION CALCULATION**

5 (to be filled out by employers only)

- 6
- 7 1. Debtor's gross wages
8 for period covered by this
9 payment..... \$ _____
- 10 2. Total amount required to be
11 withheld by law for amount in Line 1
12 (Federal and state
13 withholding, Social
14 Security, etc.)..... \$ _____
- 15 3. Debtor's disposable wages
16 (Subtract Line 2
17 from Line 1)..... \$ _____
- 18 4. Normal exemption
19 (Enter 75 percent
20 of Line 3)..... \$ _____
- 21 5. Minimum exemption (check one)
22 — [\$218] **\$254** (payment of wages weekly)
23 — [\$435] **\$509** (payment of wages every
24 two weeks)
25 — [\$468] **\$545** (payment of wages half-monthly)
26 — [\$936] **\$1,090** (payment of wages monthly)
27 — \$_____ (Any other period longer
28 than one week, including partial
29 payments for less than full pay
30 period) (Multiply [\$218] **\$254** by number
31 of weeks or fraction of a week)
- 32 6. Wages exempt from garnishment
33 (Line 4 or 5,
34 whichever is greater)..... \$ _____
- 35 7. Nonexempt wages
36 (Subtract Line 6
37 from Line 3)..... \$ _____
- 38 8. Amount withheld for this pay period
39 pursuant to a support order under
40 support withholding process or under
41 another writ with priority..... \$ _____
- 42 9. Wages subject to garnishment
43 (Subtract Line 8
44 from Line 7)..... \$ _____

1 INSTRUCTIONS FOR WAGE
2 EXEMPTION CALCULATION FORM
3

4 If you employ the Debtor named in the writ of garnishment, you must fill out and return this
5 Wage Exemption Calculation form. A Wage Exemption Calculation form must be sent with the first
6 payment you make under the writ. For the 90-day period during which the writ is effective, you must
7 also fill out and return a Wage Exemption Calculation form with a subsequent payment any time the
8 initial calculation changes. Finally, you must fill out and return a Wage Exemption Calculation form
9 with the final payment that you make under the writ.
10

11 Normal wage exemption. The wage exemption calculation is based on the amount of the payment
12 you make under the writ of garnishment. The normal wage exemption in Line 4 is 75 percent of the
13 employee's disposable wages in Line 3.
14

15 Minimum wage exemption. The minimum exemption in Line 5 is also based on the amount of the
16 payment you are making. The minimum exemption is designed to ensure that an employee receives
17 at least a certain minimum amount in any one-week period. If the payment is for a one-week period
18 (without regard to whether the period is a calendar week or any other seven-day period), the mini-
19 mum exemption is ~~[\$218]~~ **\$254**. The minimum exemption is ~~[\$435]~~ **\$509** if the payment is for a two-
20 week period. If the payment is for one-half of one month (i.e., the Debtor is paid twice each month),
21 the minimum exemption is ~~[\$468]~~ **\$545**. The minimum exemption for a monthly payment is ~~[\$936]~~
22 **\$1,090**.

23 If the payment you are making is based on some period of time other than one week, two weeks,
24 half month or month, and the payment is for more than one week, you must calculate the minimum
25 exemption by multiplying ~~[\$218]~~ **\$254** by the number of weeks covered by the paycheck, including
26 any fraction of a week. You should round the amount calculated to the nearest dollar.
27

28 Example 1: You pay Debtor A every 10 days. Each 10-day period is equal to 1.429 weeks (10
29 divided by 7). The minimum exemption is ~~[\$312]~~ **\$363** (~~[\$218]~~ **\$254** × 1.429 rounded to the
30 nearest dollar).
31

32 You must use this same calculation for computing the minimum exemption when making a pay-
33 ment for less than a full pay period (e.g., for the final payment at the end of the 90-day period cov-
34 ered by the writ).
35

36 Example 2: You pay Debtor A on a monthly basis. You are required to make a final payment
37 under a writ of garnishment for the wages owing to Debtor A for the period beginning Oc-
38 tober 1 and ending October 15. This period is equal to 2.143 weeks (15 divided by 7). The
39 minimum exemption is ~~[\$467]~~ **\$544** (~~[\$218]~~ **\$254** × 2.143 rounded to the nearest dollar).
40

41 The amount of time actually worked by the Debtor during the period covered by the paycheck
42 does not affect the calculation of the minimum exemption.
43

44 Example 3: You pay Debtor A on a weekly basis. Debtor A works two days per week. The
45 minimum exemption is ~~[\$218]~~ **\$254** for each weekly payment you make for Debtor A.

1 If the payment you are making is based on a period of time less than one week, the minimum
2 wage exemption may not exceed [~~\$218~~] **\$254** for any one-week period.

3
4 If you receive more than one writ of garnishment. If you receive more than one writ of
5 garnishment for the same debtor, the writs have priority based on the date on which you receive
6 them. If the full amount of wages subject to garnishment for a given pay period is paid on the first
7 writ, you should not make any payment on subsequently received writs until the first writ expires.
8 In some cases, it may be necessary to make payments on two or more writs for the same pay period.

9
10 Example 4. You have received two writs of garnishment for Debtor A. You pay Debtor A
11 on a monthly basis. The first writ expires on October 16. The second writ will not expire
12 until November 15. You will need to prepare two wage exemption calculation forms for
13 Debtor A's October wages and make payments under both writs. The wage exemption cal-
14 culation form for the first writ will be for the wages attributable to October 1 to October
15 15 as described in Example 2. The wage exemption calculation form for the second writ will
16 be for all wages for the month of October, but the amounts withheld under the first writ
17 must be subtracted on Line 8 to determine the October wages subject to garnishment under
18 the second writ.

19 “

20
21 **“SECTION 3.** ORS 18.845 is amended to read:

22 “18.845. A notice of exemptions form must be in substantially the form set forth in this section.
23 Nothing in the notice form described in this section is intended to expand or restrict the law re-
24 lating to exempt property. A determination as to whether property is exempt from execution, at-
25 tachment and garnishment must be made by reference to other law. The form provided in this
26 section may be modified to provide more information or to update the notice based on subsequent
27 changes in exemption laws.

28 “

29
30 NOTICE OF EXEMPT PROPERTY
31 AND INSTRUCTIONS FOR
32 CHALLENGE TO GARNISHMENT
33

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

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

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

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

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

44 (b) [~~\$218~~] **\$254** per workweek.

45 (2) Social Security benefits.

- 1 (3) Supplemental Security Income (SSI).
- 2 (4) Public assistance (welfare).
- 3 (5) Unemployment benefits.
- 4 (6) Disability benefits (other than SSI benefits).
- 5 (7) Workers' compensation benefits.
- 6 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in
7 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are
8 held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment
9 form if you claim this exemption.
- 10 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
11 for your support or the support of any of your dependents.
- 12 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
13 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly
14 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value
15 of the homestead is exempt.
- 16 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
17 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
18 another homestead.
- 19 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
20 to exceed \$3,000.
- 21 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.
- 22 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
23 occupation, with a combined value not to exceed \$5,000.
- 24 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 25 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
26 \$1,800.
- 27 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
28 and their food for 60 days.
- 29 (18) Provisions and fuel for your family for 60 days.
- 30 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
31 may not exceed \$1,000.
- 32 (20) Public or private pensions.
- 33 (21) Veterans' benefits and loans.
- 34 (22) Medical assistance benefits.
- 35 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 36 (24) Cash surrender value of life insurance policies not payable to your estate.
- 37 (25) Federal annuities.
- 38 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
39 emption as wages).
- 40 (27) Professionally prescribed health aids for you or any of your dependents.
- 41 *(28) Rental assistance to an elderly person allowed pursuant to ORS 458.375.
- 42 (29) Your right to receive, or property traceable to:
 - 43 (a) An award under any crime victim reparation law.
 - 44 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
45 jury suffered by you or an individual of whom you are a dependent.

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

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

5 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
6 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

7 *(32) Interest in personal property to the value of \$400, but this cannot be used to increase the
8 amount of any other exemption.

9 (33) Equitable interests in property.

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

11 (35) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
12 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
13 Calculation form.

14
15 Note: If two or more people in your household owe the claim or judgment, each of them may
16 claim the exemptions marked by an asterisk (*).

17 “

18
19 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
20 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
21 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
22 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
23 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
24 obligation.

25
26 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
27 You may seek to reclaim your exempt property by doing the following:

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

29 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
30 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
31 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
32 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
33 other money or property is exempt, or claim that the property is not subject to garnishment, you
34 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
35 showing that your challenge is made on time, so you should keep records showing when the chal-
36 lenge was mailed or delivered.

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

40
41 You should be prepared to explain your exemption in court. If you have any questions about the
42 garnishment or the debt, you should see an attorney.

43 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
44 ING PURPOSES:

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

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

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

4
5 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
6 VALIDITY OF THE DEBT.

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

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

15 “ _____

16

17 “**SECTION 4.** ORS 18.896 is amended to read:

18 “18.896. (1) The challenge to execution form described in this section does not expand or restrict
19 the law relating to exempt property. A determination as to whether property is exempt from at-
20 tachment or execution must be made by reference to other law. The form provided in this section
21 may be modified to provide more information or to update the notice based on subsequent changes
22 in exemption laws.

23 “(2) A challenge to execution form must be in substantially the following form:

24 “ _____

25

26 _____ COURT
27 COUNTY OF _____

28

29 _____) CHALLENGE TO

30 Plaintiff,) EXECUTION

31)

32 vs.) Case No. _____

33)

34 _____)

35 Defendant.)

36

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

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

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

41

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

44

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

1 I/We claim that the following described property or money is exempt from execution:
2 _____
3
4 _____

5
6
7 I/We believe this property is exempt from execution because (the Notice of Exempt Property at
8 the end of this form describes most types of property that you can claim as exempt from execution):
9 _____
10
11 _____

12
13
14 I am a person other than the Debtor and I have the following interest in the property:
15 _____
16
17 _____

18
19
20 Name _____ Name _____
21 Signature _____ Signature _____
22 Address _____ Address _____
23 _____
24 Telephone Telephone
25 Number _____ Number _____
26 (Required) (Required)

27
28
29 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**
30 You may seek to reclaim your exempt property by doing the following:

- 31 (1) Fill out the Challenge to Execution form that you received with this notice.
32 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
33 shown on the writ of execution.
34 (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the
35 address shown on the writ of execution.

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

38
39 **YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR THE FOLLOWING**
40 **PURPOSES:**

- 41 (1) To claim such exemptions from execution as are permitted by law.
42 (2) To assert that the amount specified in the writ of execution as being subject to execution is
43 greater than the total amount owed.

44
45 **YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE**

1 VALIDITY OF THE DEBT.

2
3 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
4 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
5 to are listed in ORS 18.899.

6
7 NOTICE OF EXEMPT PROPERTY
8

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

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

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

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

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

19 (b) [~~\$218~~] **\$254** per workweek.

20 (2) Social Security benefits.

21 (3) Supplemental Security Income (SSI).

22 (4) Public assistance (welfare).

23 (5) Unemployment benefits.

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

25 (7) Workers' compensation benefits.

26 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in
27 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are
28 held in a bank account.

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

31 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
32 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly
33 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value
34 of the homestead is exempt.

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

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

40 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.

41 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
42 occupation, with a combined value not to exceed \$5,000.

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

44 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
45 \$1,800.

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

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

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

6 (20) Public or private pensions.

7 (21) Veterans' benefits and loans.

8 (22) Medical assistance benefits.

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

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

11 (25) Federal annuities.

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

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

15 *(28) Rental assistance to an elderly person allowed pursuant to ORS 458.375.

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

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

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

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

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

24 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
25 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

26 (32) Interest in personal property to the value of \$400, but this cannot be used to increase the
27 amount of any other exemption.

28 (33) Equitable interests in property.

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

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33 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
34 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
35 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
36 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
37 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
38 obligation.

39 “

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