

Requested by Representative RAYFIELD

**PROPOSED AMENDMENTS TO
HOUSE BILL 2008**

1 On page 1 of the printed bill, line 3, delete “18.855,”.

2 Delete lines 6 through 28 and delete pages 2 through 20 and insert:

3 **“SECTION 1.** ORS 18.345 is amended to read:

4 “18.345. (1)(a) All property **of the judgment debtor**, including franchises,
5 or rights or interest [*therein, of the judgment debtor, shall be*] **in the judg-**
6 **ment debtor’s property, is** liable to an execution, except as provided in this
7 section and in other statutes granting exemptions from execution. The fol-
8 lowing property **of the judgment debtor**, or rights or interest [*therein of the*
9 *judgment debtor*] **in the property**, except as provided in ORS 18.305, [*shall*
10 *be*] **is** exempt from execution:

11 “[*(a) Books, pictures and musical instruments to the value of \$600.*]

12 “[*(b) Wearing apparel, jewelry and other personal items to the value of*
13 *\$1,800.*]

14 “[*(c) The tools, implements, apparatus, team, harness or library, necessary*
15 *to enable the judgment debtor to carry on the trade, occupation or profession*
16 *by which the judgment debtor habitually earns a living, to the value of*
17 *\$5,000.*]

18 “[*(d) A vehicle to the value of \$3,000. As used in this paragraph ‘vehicle’*
19 *includes an automobile, truck, trailer, truck and trailer or other motor*
20 *vehicle.*]

21 “[*(e) Domestic animals and poultry kept for family use, to the total value*

1 of \$1,000 and food sufficient to support such animals and poultry for 60
2 days.]

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

8 **“(A) All household goods of the judgment debtor and the judgment
9 debtor’s dependents, except individual items that a court determines
10 have a value of more than \$3,000, including but not limited to:**

11 **“(i) Appliances, cookware, dishes and utensils for storing food and
12 preparing meals, such as a refrigerator, stove, microwave oven or
13 other kitchen appliance;**

14 **“(ii) Food and other provisions, including medical devices, pre-
15 scribed health aids and medications;**

16 **“(iii) Cleaning appliances such as a clothes washer and dryer and
17 vacuum cleaner;**

18 **“(iv) Equipment for maintaining a yard;**

19 **“(v) Radios and a television;**

20 **“(vi) Household equipment and tools necessary to operate, maintain
21 or repair a home, including heating and cooling appliances and fuel for
22 the appliances, air cleaners and security devices and equipment;**

23 **“(vii) All personal possessions, including books, clothing, pets, per-
24 sonal health aids, musical instruments, toys and recreational items,
25 computers and similar electronic devices and telephones; and**

26 **“(viii) One item of jewelry, regardless of price, if the judgment
27 debtor or a family member of the judgment debtor has owned the item
28 of jewelry for at least five years before the date of the judgment.**

29 **“(B)(i) Subject to sub-subparagraph (ii) of this subparagraph, items
30 other than household goods, including:**

1 **“(I) Tools;**
2 **“(II) Books;**
3 **“(III) Software;**
4 **“(IV) Subscriptions;**
5 **“(V) Electronically stored data other than cryptocurrency or digital**
6 **currency that a government or governmental agency issues;**
7 **“(VI) Instruments, machines and equipment that the judgment**
8 **debtor uses or may use to engage in or search for employment; and**
9 **“(VII) Farm tools, equipment, crops and animals.**
10 **“(ii) A court may allow execution for specific items if the court**
11 **finds from probative evidence that the aggregate value of the items**
12 **specified in sub-subparagraph (i) of this subparagraph exceeds \$15,000,**
13 **or \$30,000 for farm tools, equipment, crops and animals, and the court**
14 **permits the judgment debtor to specify particular items that are ex-**
15 **empt from execution.**
16 **“(C) A motor vehicle or an interest in a motor vehicle up to a value**
17 **of \$10,000.**
18 **“[(g)] (D) All property of the state or any county or incorporated city**
19 **therein, or of any other public or municipal corporation of like character.**
20 **“[(h) All professionally prescribed health aids for the debtor or a dependent**
21 **of the debtor.]**
22 **“[(i)] (E) Spousal support, child support, or separate maintenance to the**
23 **extent reasonably necessary for the support of the judgment debtor and any**
24 **dependent of the judgment debtor.**
25 **“[(j)] (F) The judgment debtor’s right to receive, or property that is**
26 **traceable to, an award under any crime victim reparation law.**
27 **“[(k)] (G) The judgment debtor’s right to receive, or property that is**
28 **traceable to, a payment or payments, not to exceed a total of \$10,000, on**
29 **account of personal bodily injury of the judgment debtor or an individual**
30 **of whom the judgment debtor is a dependent.**

1 “[*L*] (H) The **judgment** debtor’s right to receive, or property that is
2 traceable to, a payment in compensation of loss of future earnings of the
3 **judgment** debtor or an individual of whom the **judgment** debtor is or was
4 a dependent, to the extent reasonably necessary for the support of the
5 **judgment** debtor and any dependent of the **judgment** debtor.

6 “[*m*] (I) Veterans’ benefits and loans.

7 “[*n*] (J) The **judgment** debtor’s right to receive an earned income tax
8 credit under the federal tax laws and any moneys that are traceable to a
9 payment of an earned income tax credit under the federal tax laws.

10 “[*o*] (K) The **judgment** debtor’s right to the assets held in, or right to
11 receive payments under, a medical savings account or health savings account
12 authorized under section 220 or 223 of the Internal Revenue Code.

13 “[*p*] (L) The **judgment** debtor’s interest, not to exceed [~~\$400~~] **\$1,500** in
14 value, in any personal property[. *However*], **except that** this exemption may
15 not be used to increase the amount of [*any other exemption*] **the wage**
16 **garnishment exemption set forth in ORS 18.385 or the account**
17 **garnishment exemption set forth in ORS 18.785 with respect to a sup-**
18 **port obligation or restitution judgment.**

19 “(b) **The amounts specified as maximum limits on exemptions in**
20 **paragraph (a) of this subsection must be indexed annually to reflect**
21 **increases or decreases in the cost of living for the previous calendar**
22 **year, based on changes in the Consumer Price Index for All Urban**
23 **Consumers, West Region (All Items), as published by the Bureau of**
24 **Labor Statistics of the United States Department of Labor or a suc-**
25 **cessor agency. The State Court Administrator shall adjust the ex-**
26 **emption limitations specified in paragraph (a) of this subsection each**
27 **year on or before July 1. In adjusting the exemption limitations, the**
28 **State Court Administrator shall round to the nearest \$100, but shall**
29 **use the unrounded adjusted amount to calculate adjustments to the**
30 **exemption limitations during the succeeding year. The adjusted ex-**

1 **emption limitations become effective on July 1 of the year in which**
2 **the State Court Administrator makes the adjustment and apply to all**
3 **executions that occur with respect to the applicable property before**
4 **July 1 of the following year.**

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

19 “(3) If two or more members of a household are joint judgment debtors,
20 each judgment debtor shall be entitled to claim the exemptions in subsection
21 [*(1)(a), (b), (c), (d) and (p)*] **(1)** of this section in the same or different prop-
22 erties. The exemptions provided by subsection [*(1)(a), (b), (c), (d), (j), (k) and*
23 *(p)*] **(1)** of this section, when claimed for jointly owned property, may be
24 combined at the option of the **joint judgment** debtors.

25 “(4) Notwithstanding any other provision of law except ORS 657.855, if a
26 writ of garnishment or other execution is issued to collect past due support
27 as defined in ORS 18.600, 50 percent of unemployment compensation benefits,
28 workers’ compensation benefits and other benefits paid to the debtor by the
29 United States, by the state or by a political subdivision of the state are ex-
30 empt. The exemption related to unemployment compensation benefits pro-

1 vided by this subsection is subject to ORS 657.855. The exemption provided
2 by this subsection applies without regard to whether the payment is made
3 on a periodic basis or in a lump sum, including any lump sum payable pur-
4 suant to a settlement or judgment. Notwithstanding subsection [(1)(k)]
5 **(1)(a)(G)** of this section, if a payment is made under a settlement or judg-
6 ment on account of personal bodily injury and the garnishment or other ex-
7 ecution is issued to collect past due support as defined in ORS 18.600, the
8 lesser of 50 percent of the payment or \$7,500 is exempt.

9 **“SECTION 2.** ORS 18.348 is amended to read:

10 “18.348. (1)(a) Funds that are exempt from execution under ORS 18.358,
11 18.385, 178.345, 238.445, 344.580, 407.595, 411.760, 414.095, 655.530, 656.234,
12 657.855 and 748.207 remain exempt when deposited in an account in a finan-
13 cial institution as long as the exempt funds are reasonably identifiable.

14 **“(b) The amounts of the funds identified as exempt from execution**
15 **under paragraph (a) of this subsection must be indexed annually to**
16 **reflect increases or decreases in the cost of living for the previous**
17 **calendar year, based on changes in the Consumer Price Index for All**
18 **Urban Consumers, West Region (All Items), as published by the Bu-**
19 **reau of Labor Statistics of the United States Department of Labor or**
20 **a successor agency. The State Court Administrator shall adjust the**
21 **amounts of the exemptions for the funds identified as exempt under**
22 **paragraph (a) of this subsection each year on or before July 1. In ad-**
23 **justing the amounts, the State Court Administrator shall round to the**
24 **nearest \$100, but shall use the unrounded adjusted amounts to calcu-**
25 **late the amounts of the exemptions during the succeeding year. The**
26 **adjusted amounts become effective on July 1 of the year in which the**
27 **State Court Administrator makes the adjustment and apply to all ex-**
28 **ecutions that occur with respect to the identified funds before July 1**
29 **of the following year.**

30 “(2) Subsection (1) of this section does not apply to any accumulation of

1 funds greater than \$7,500.

2 “(3) All funds that are exempt under federal law remain exempt when
3 deposited in an account in a financial institution as long as the exempt funds
4 are reasonably identifiable.

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

9 “(5) The provisions of this section do not affect the duties of a garnishee
10 with respect to amounts in accounts that are not subject to garnishment
11 under ORS 18.784.

12 **“SECTION 3.** ORS 18.385 is amended to read:

13 “18.385. (1) Except as provided in this section, 75 percent of the disposable
14 earnings of an individual are exempt from execution.

15 “(2) The disposable earnings of an individual are exempt from execution
16 to the extent that payment under a garnishment would result in net dispos-
17 able earnings for an individual of less than the following amounts:

18 “(a) [~~\$254~~] **The minimum wage specified in ORS 653.025 (2), multi-**
19 **plied by 40**, for any period of one week or less;

20 “(b) [~~\$509~~] **The minimum wage specified in ORS 653.025 (2), multi-**
21 **plied by 80**, for any two-week period;

22 “(c) [~~\$545~~] **The minimum wage specified in ORS 653.025 (2), multiplied**
23 **by 88**, for any half-month period;

24 “(d) [~~\$1,090~~] **The minimum wage specified in ORS 653.025 (2), multi-**
25 **plied by 176**, for any one-month period; and

26 “(e) For any other period longer than one week, [~~\$254~~] **the minimum**
27 **wage specified in ORS 653.025 (2), multiplied by 40 and multiplied again**
28 **by that fraction produced by dividing the number of days for which the**
29 **earnings are paid by seven. The amount calculated under this paragraph**
30 **must be rounded to the nearest dollar.**

1 “(3) If an individual is paid for a period shorter than one week **or re-**
2 **ceives less than \$1,000 during any week**, the [*exemption calculated under*
3 *subsection (2) of this section may not exceed \$254 for any one-week period.*]
4 **entire amount of the payment the individual receives during that week**
5 **is exempt from execution. If the individual’s pay period is longer than**
6 **one week but the amount the individual receives exceeds \$1,000 during**
7 **one of the weeks of the pay period, not more than 10 percent of the**
8 **amount by which the payment exceeds \$1,000 during the week is sub-**
9 **ject to garnishment, unless the amount the individual receives during**
10 **one of the weeks exceeds \$1,200, in which case not more than 15 per-**
11 **cent of the amount by which the payment exceeds \$1,000 during the**
12 **week is subject to garnishment.**

13 “(4) An employer shall deduct from the amount of disposable earnings
14 determined to be nonexempt under subsections (1) to (3) of this section any
15 amounts withheld from the individual’s earnings for the same period of time
16 under an order issued pursuant to ORS 25.378 or 419B.408 or ORS chapter
17 110. The employer shall make payment under a garnishment only of those
18 amounts remaining after the deduction is made.

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

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

21 “(b) Any debt due for federal tax.

22 “(6) Subsections (2) to (4) of this section do not apply to any debt due for
23 state tax. Subsection (1) of this section does not apply to a debt due for state
24 tax if a state agency issues a special notice of garnishment under ORS 18.855
25 (6).

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

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

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

1 **“SECTION 4.** ORS 18.395 is amended to read:

2 **“18.395. (1)(a) Except as provided in paragraph (d) of this subsection**
3 **or as otherwise provided by law, a homestead [shall be] is exempt from**
4 **sale on execution[,] from the lien of every judgment and from liability in any**
5 **form for the debts of the owner to the amount in value of [\$40,000, except**
6 **as otherwise provided by law.]:**

7 **“(A) Thirty-three percent of the real market value of the home-**
8 **stead, as determined by the county assessor in the year in which the**
9 **owner claims the exemption, if the owner is younger than 65 years of**
10 **age; or**

11 **“(B) One hundred percent of the real market value of the home-**
12 **stead, as determined by the county assessor in the year in which the**
13 **owner claims the exemption, if the owner is 65 years or age or older.**

14 **(b) The applicable exemption [shall be] under paragraph (a) of this**
15 **subsection is effective without the [necessity of a claim thereof by the]**
16 **judgment debtor needing to claim the exemption. [When two or more**
17 **members of a household are debtors whose interests in the homestead are**
18 **subject to sale on execution, the lien of a judgment or liability in any form,**
19 **their combined exemptions under this section shall not exceed \$50,000.]**

20 **“(c) To qualify for the exemption, the homestead must be the actual**
21 **abode of and occupied by the owner, or the owner’s spouse, parent or child,**
22 **but the exemption [shall not be] is not impaired by:**

23 **“[(a)] (A) Temporary removal or temporary absence with the intention to**
24 **reoccupy the same as a homestead;**

25 **“[(b)] (B) Removal or absence from the property; or**

26 **“[(c)] (C) The sale of the property.**

27 **“(d) A homestead is exempt from sale on execution from the lien**
28 **of a judgment and from liability in any form for the debts of the owner**
29 **arising out of a support obligation or a judgment of restitution to the**
30 **amount in value of \$40,000 or, if two or more members of a household**

1 **have debts that arise out of a support obligation or a judgment of**
2 **restitution and have interests in the homestead that are subject to sale**
3 **on execution, the combined exemptions under this paragraph may not**
4 **exceed \$50,000.**

5 “(2) The exemption [*shall extend*] **extends** to the proceeds derived from
6 [*such sale to an amount not exceeding \$40,000 or \$50,000, whichever*] **selling**
7 **the homestead in the amount that** is applicable under subsection (1) of this
8 section, if the proceeds are held for a period not exceeding [*one year*] **two**
9 **years** and held with the intention to procure another homestead therewith.

10 “(3) The **applicable** exemption period under subsection [*(1)(b) and (c)*]
11 **(1)(c)(B) and (C)** of this section [*shall be*] **is** one year from the removal,
12 absence or sale, whichever occurs first.

13 “(4) When the owner of a homestead has been granted a discharge in
14 bankruptcy or has conveyed the homestead property, the value thereof, for
15 the purpose of determining a leviable interest in excess of the homestead
16 exemption, [*shall be*] **is** the value on the date of the petition in bankruptcy,
17 whether the value is determined in the bankruptcy proceedings or not, or on
18 the date the conveyance becomes effective, whichever [*shall*] **occurs** first
19 [*occur*]. However, with respect to judgments not discharged in the bank-
20 ruptcy, or entered against the owner after discharge, the value on the effec-
21 tive date of conveyance [*shall be controlling*] **controls**.

22 “(5) Except as provided in subsection (7) of this section, [*no*] **a** homestead
23 that is the actual abode of and occupied by the judgment debtor, or that is
24 the actual abode of and occupied by a spouse, dependent parent or dependent
25 child of the judgment debtor, [*shall*] **may not** be sold on execution to satisfy
26 a judgment that at the time of entry does not exceed \$3,000. However, such
27 judgment [*shall remain*] **remains** a lien upon the real property, and the
28 property may be sold on execution:

29 “(a) At any time after the sale of the property by the judgment debtor;
30 and

1 “(b) At any time after the property is no longer the actual abode of and
2 occupied by the judgment debtor or the spouse, dependent parent or depend-
3 ent child of the judgment debtor.

4 “(6) The limitation on execution sales imposed by subsection (5) of this
5 section is not impaired by temporary removal or temporary absence with the
6 intention to reoccupy the property as a homestead.

7 “(7) The limitation on execution sales imposed by subsection (5) of this
8 section does not apply if two or more judgments are owing to a single judg-
9 ment creditor and the total amount owing to the judgment creditor, deter-
10 mined by adding the amount of each individual judgment as of the date the
11 judgment was entered, is greater than \$3,000.

12 “(8) Upon the issuance of an order authorizing sale as required by ORS
13 18.904, and in conformance with subsection (5) of this section, the sheriff
14 may proceed to sell the property. If the homestead exemption applies, the
15 sheriff shall pay the homestead owner out of the proceeds the *[sum of \$40,000*
16 *or \$50,000, whichever is applicable,]* **applicable amount specified in sub-**
17 **section (1)(a) of this section** and apply the balance of the proceeds on the
18 execution. However, *[no sale shall be made where]* **the sheriff may not sell**
19 **the homestead if an** exemption applies unless the sum bid for the homestead
20 *[is in excess of]* **exceeds** the sum of the costs of sale and *[\$40,000 or \$50,000,*
21 *whichever is applicable]* **the amount of the applicable exemption.** If no
22 such bid is received, the **petitioner shall bear the** expense of the sale *[shall*
23 *be borne by the petitioner].*

24 “(9) The homestead exemption provided by this section applies to a
25 purchaser’s interest under a land sale contract, as defined by ORS 18.960.

26 “(10) The homestead exemption provided by this section applies to:

27 “(a) A floating home, as defined by ORS 830.700; and

28 “(b) A manufactured dwelling, as defined by ORS 446.003.

29 “**SECTION 5.** ORS 18.402 is amended to read:

30 “18.402. *[The]* **A** homestead *[mentioned]* **described** in ORS 18.395 *[shall*

1 *consist*] **consists**, when not located in any town or city laid off into blocks
2 and lots, of any quantity of land not exceeding 160 acres, and when located
3 in any such town or city, of any quantity of land not exceeding one block.
4 However, a homestead under this section [*shall*] **may** not exceed in value the
5 [*sum of \$40,000 or \$50,000, whichever amount is applicable under*] **applicable**
6 **amount specified in ORS 18.395 (1).**

7 **“SECTION 6.** ORS 18.412 is amended to read:

8 “18.412. (1) At any time after the date of execution of an agreement to
9 transfer the ownership of property in which a homestead exemption exists
10 pursuant to ORS 18.395, the homestead owner or the owner’s transferee may
11 give notice of intent to discharge the property from the judgment lien to a
12 judgment creditor. Each notice [*shall*] **must** bear the caption of the action
13 in which the judgment was recovered and [*shall*] **must**:

14 “(a) Identify the property and the judgment and state that the judgment
15 debtor is about to transfer, or has transferred, the property and that the
16 transfer is intended to discharge the property from any lien effect of the
17 judgment;

18 “(b) State the fair market value of the property on the date of the notice
19 or of any applicable petition in bankruptcy, whichever is applicable, and list
20 the encumbrances against the property, including the nature and date of each
21 encumbrance, the name of the encumbrancer and the amount presently se-
22 cured by each encumbrance;

23 “(c) State that the property is claimed by the person giving the notice to
24 be wholly exempt from the lien of the judgment or, if the value of the prop-
25 erty exceeds the sum of the encumbrances specified as required under para-
26 graph (b) of this subsection that are senior to the judgment lien and [*\$40,000*
27 *or \$50,000, whichever*] **the applicable** amount of the homestead exemption
28 [*is applicable under*] **specified in ORS 18.395 (1),** that the amount of the ex-
29 cess or the amount due on the judgment, whichever is less, will be deposited
30 with the court administrator for the court in which the judgment was en-

1 tered for the use of the judgment holder; and

2 “(d) Advise the holder of the judgment that the property may be dis-
3 charged from any lien arising from the judgment, without further notice to
4 the judgment creditor, unless prior to a specified date, which in no case may
5 be earlier than 14 days after the date of mailing of the notice, the judgment
6 creditor files objections and a request for a hearing on the matter as pro-
7 vided in ORS 18.415.

8 “(2) Each notice described by subsection (1) of this section [*shall*] **must**
9 be sent by certified mail to the judgment creditor, as shown by the court
10 records, at the judgment creditor’s present or last-known address according
11 to the best knowledge of the person sending the notice. A copy of each no-
12 tice, together with proof of mailing, may be filed with the court administra-
13 tor for the court in which the judgment was entered and [*shall*] **must** be
14 filed by the court administrator with the records and files of the action in
15 which the judgment was recovered.

16 “**SECTION 7.** ORS 18.785 is amended to read:

17 “18.785. (1)(a) Except as provided in this section[,]:

18 “(A) **If a financial institution conducts a garnishment account re-**
19 **view under ORS 18.784 (1) and the total balance of all of the debtor’s**
20 **accounts at the financial institution does not exceed \$2,500, the finan-**
21 **cial institution shall ensure that the debtor has full customary access**
22 **to the balance.**

23 “(B) If a financial institution determines from a garnishment account
24 review conducted under ORS 18.784 (1) that one or more payments described
25 in ORS 18.784 (3) have been deposited into the debtor’s account by direct
26 deposit or electronic payment during the lookback period described in ORS
27 18.784 (2), and there is a positive balance **of more than \$2,500** in the account
28 at the time the garnishment account review is conducted, the financial in-
29 stitution shall:

30 “[*a*] (i) Immediately calculate and establish the amount in the debtor’s

1 account that is not subject to garnishment, **which may not be less than**
2 **\$2,500 plus the amount of payments described in ORS 18.784 (3) that**
3 **are deposited into the debtor's account**, and ensure that the debtor has
4 full customary access to that amount; and

5 “[*b*] (ii) Issue a notice to the account holder in substantially the form
6 set forth in ORS 18.847.

7 “(b) **The balance identified as exempt from garnishment under par-**
8 **agraph (a) of this subsection must be indexed annually to reflect in-**
9 **creases or decreases in the cost of living for the previous calendar**
10 **year, based on changes in the Consumer Price Index for All Urban**
11 **Consumers, West Region (All Items), as published by the Bureau of**
12 **Labor Statistics of the United States Department of Labor or a suc-**
13 **cessor agency. The State Court Administrator shall adjust the amount**
14 **of the exemptions for the balances identified as exempt under para-**
15 **graph (a) of this subsection each year on or before July 1. In adjusting**
16 **the amounts, the State Court Administrator shall round to the nearest**
17 **\$100, but shall use the unrounded adjusted amounts to calculate the**
18 **amount of the exemption during the succeeding year. The adjusted**
19 **amount becomes effective on July 1 of the year in which the State**
20 **Court Administrator makes the adjustment and applies to all**
21 **garnishments that occur with respect to the identified balances before**
22 **July 1 of the following year.**

23 “(c) **The account balance to which the financial institution must**
24 **ensure full customary access under paragraph (a)(B)(i) of this sub-**
25 **section does not consist of or include amounts that are exempt from**
26 **garnishment under ORS 18.348 and 18.385.**

27 “(2) A financial institution shall issue the notice required by **subsection**
28 **(1)(a)(B)(ii) of this section** directly to the account holder or to a fiduciary
29 who administers the account and receives communications on behalf of the
30 account holder.

1 “(3) The notice required by **subsection (1)(a)(B)(ii) of this section** must
2 be sent separately to the debtor and may not be included with other mate-
3 rials being provided to the debtor by the financial institution that do not
4 relate to the garnishment.

5 “(4) The notice required by **subsection (1)(a)(B)(ii) of this section** must
6 be sent to the account holder within three business days after the financial
7 institution completes the garnishment account review required by ORS 18.784
8 (1).

9 “(5) A financial institution shall perform the calculation described in
10 subsection (1)(a)(B)(i) of this section for each account of the account holder.
11 However, the financial institution may issue a single notice under **sub-**
12 **section (1)(a)(B)(ii) of this section** for multiple accounts of the same ac-
13 count holder.

14 “(6) Issuance of a notice under **subsection (1)(a)(B)(ii) of this section**
15 does not constitute the giving of legal advice and a financial institution is
16 not obligated to provide legal advice by reason of issuing a notice required
17 by **subsection (1)(a)(B)(ii) of this section**.

18 “**SECTION 8.** ORS 18.840 is amended to read:

19 “18.840. A wage exemption calculation form must be delivered to the
20 garnishee with each writ of garnishment. A wage exemption calculation form
21 must be in substantially the following form:

22 “ _____

23 **WAGE EXEMPTION CALCULATION**

24 (to be filled out by employers only)

25

- 26 1. Debtor’s gross wages
27 for period covered by this
28 payment..... \$ _____
- 29 2. Total amount required to be
30 withheld by law for amount in Line 1

1 (Federal and state
2 withholding, Social
3 Security, etc.)..... \$ _____

4 3. Debtor's disposable wages
5 (Subtract Line 2
6 from Line 1)..... \$ _____

7 4. Normal exemption
8 (Enter 75 percent
9 of Line 3)..... \$ _____

10 5. Minimum exemption (check one)

11 — [\$254] **The minimum wage that**
12 **the Bureau of Labor and Industries**
13 **calculates for the Portland metropolitan**
14 **area, multiplied by 40** (payment of
15 wages weekly)

16 — [\$509] **The minimum wage that**
17 **the Bureau of Labor and Industries**
18 **calculates for the Portland metropolitan**
19 **area, multiplied by 80** (payment of
20 wages every two weeks)

21 — [\$545] **The minimum wage that**
22 **the Bureau of Labor and Industries**
23 **calculates for the Portland metropolitan**
24 **area, multiplied by 88** (payment of
25 wages half-monthly)

26 — [\$1,090] **The minimum wage that**
27 **the Bureau of Labor and Industries**
28 **calculates for the Portland metropolitan**
29 **area, multiplied by 176** (payment of
30 wages half-monthly)

1 — \$—— (Any other period longer
2 than one week, including partial
3 payments for less than full pay period)
4 (Multiply [~~\$254~~] **the minimum wage that**
5 **the Bureau of Labor and Industries**
6 **calculates for the Portland metropolitan**
7 **area by 40 and multiply again** by number
8 of weeks or fraction of a week)

9 6. Wages exempt from garnishment
10 (Line 4 or 5,
11 whichever is greater)..... \$ ——

12 7. Nonexempt wages
13 (Subtract Line 6
14 from Line 3)..... \$ ——

15 8. Amount withheld for this pay period
16 pursuant to a support order under
17 support withholding process or under
18 another writ with priority..... \$ ——

19 9. Wages subject to garnishment
20 (Subtract Line 8
21 from Line 7)..... \$ ——

22
23
24
25

INSTRUCTIONS FOR WAGE
EXEMPTION CALCULATION FORM

26 If you employ the Debtor named in the writ of garnishment, you must fill
27 out and return this Wage Exemption Calculation form. A Wage Exemption
28 Calculation form must be sent with the first payment you make under the
29 writ. For the 90-day period during which the writ is effective, you must also
30 fill out and return a Wage Exemption Calculation form with a subsequent

1 payment any time the initial calculation changes. Finally, you must fill out
2 and return a Wage Exemption Calculation form with the final payment that
3 you make under the writ.

4

5 Normal wage exemption. The wage exemption calculation is based on the
6 amount of the payment you make under the writ of garnishment. The normal
7 wage exemption in Line 4 is 75 percent of the employee's disposable wages
8 in Line 3.

9

10 Minimum wage exemption. The minimum exemption in Line 5 is also
11 based on the amount of the payment you are making. The minimum ex-
12 emption is designed to ensure that an employee receives at least a certain
13 minimum amount in any one-week period. If the payment is for a one-week
14 period (without regard to whether the period is a calendar week or any other
15 seven-day period), the minimum exemption is [~~\$254~~] **the minimum wage**
16 **that the Bureau of Labor and Industries calculates for the Portland**
17 **metropolitan area, multiplied by 40.** The minimum exemption is [~~\$509~~] **the**
18 **minimum wage that the bureau calculates for the Portland metropol-**
19 **itan area, multiplied by 80** if the payment is for a two-week period. If the
20 payment is for one-half of one month (i.e., the Debtor is paid twice each
21 month), the minimum exemption is [~~\$545~~] **the minimum wage that the**
22 **bureau calculates for the Portland metropolitan area, multiplied by**
23 **88.** The minimum exemption for a monthly payment is [~~\$1,090~~] **the minimum**
24 **wage that the bureau calculates for the Portland metropolitan area,**
25 **multiplied by 176.**

26 If the payment you are making is based on some period of time other than
27 one week, two weeks, half month or month, and the payment is for more than
28 one week, you must calculate the minimum exemption by multiplying [~~\$254~~]
29 **the minimum wage that the bureau calculates for the Portland met-**
30 **ropolitan area, multiplied by 40 and multiplied again** by the number of

1 weeks covered by the paycheck, including any fraction of a week. You should
2 round the amount calculated to the nearest dollar.

3

4 *[Example 1: You pay Debtor A every 10 days. Each 10-day period is*
5 *equal to 1.429 weeks (10 divided by 7). The minimum exemption is \$363*
6 *(\$254 × 1.429 rounded to the nearest dollar).]*

7

8 *[You must use this same calculation for computing the minimum exemption*
9 *when making a payment for less than a full pay period (e.g., for the final*
10 *payment at the end of the 90-day period covered by the writ).]*

11

12 *[Example 2: You pay Debtor A on a monthly basis. You are required to*
13 *make a final payment under a writ of garnishment for the wages owing*
14 *to Debtor A for the period beginning October 1 and ending October 15.*
15 *This period is equal to 2.143 weeks (15 divided by 7). The minimum*
16 *exemption is \$544 (\$254 × 2.143 rounded to the nearest dollar).]*

17

18 *[The amount of time actually worked by the Debtor during the period cov-*
19 *ered by the paycheck does not affect the calculation of the minimum*
20 *exemption.]*

21

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

25

26 *[If the payment you are making is based on a period of time less than one*
27 *week, the minimum wage exemption may not exceed \$254 for any one-week pe-*
28 *riod.]*

29

30 **The amounts that are exempt from garnishment may change from
year to year. Contact the office of the State Court Administrator at**

1 _____ for current exemption amounts and for examples of
2 calculations that you may consult as guides for completing this form.

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

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

23 “ _____
24 **“SECTION 9.** ORS 18.845 is amended to read:

25 “18.845. A notice of exemptions form must be in substantially the form set
26 forth in this section. Nothing in the notice form described in this section is
27 intended to expand or restrict the law relating to exempt property. A deter-
28 mination as to whether property is exempt from execution, attachment and
29 garnishment must be made by reference to other law. The form provided in
30 this section may be modified to provide more information or to update the

1 notice based on subsequent changes in exemption laws.

2 “

3 NOTICE OF EXEMPT PROPERTY
4 AND INSTRUCTIONS FOR
5 CHALLENGE TO GARNISHMENT
6

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

10 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ
11 THIS NOTICE CAREFULLY.

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

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

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

17 (b) ~~[\$254]~~ **The current amount of the minimum wage for the**
18 **Portland metropolitan area, multiplied by 40, per workweek.**

19 (2) Social Security benefits.

20 (3) Supplemental Security Income (SSI).

21 (4) Public assistance (welfare).

22 (5) Unemployment benefits.

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

24 (7) Workers' compensation benefits.

25 (8) All Social Security benefits and Supplemental Security Income bene-
26 fits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unem-
27 ployment benefits and disability benefits, that are held in a bank account.
28 You may attach copies of bank statements to the Challenge to Garnishment
29 form if you claim this exemption.

30 (9) Spousal support, child support or separate maintenance to the extent

1 reasonably necessary for your support or the support of any of your depen-
2 dents.

3 (10) A homestead (house, manufactured dwelling or floating home) occu-
4 pied by you, or occupied by your spouse, parent or child. [*Up to \$40,000 of*
5 *the value of the homestead is exempt.*] **An amount equivalent to one-third**
6 **of the real market value of the homestead, if the owner is younger**
7 **than 65 years of age, or 100 percent of the real market value of the**
8 **homestead, if the owner is 65 years of age or older, is exempt.** [*If you*
9 *jointly own the homestead with another person who is also liable on the debt,*
10 *up to \$50,000 of the value of the homestead is exempt.*]

11 (11) Proceeds from the sale of a homestead described in item 10, up to the
12 limits described in item 10, if you hold the proceeds for less than [*one year*]
13 **two years** and intend to use those proceeds to procure another homestead.

14 [*(12) Household goods, furniture, radios, a television set and utensils with*
15 *a combined value not to exceed \$3,000.*]

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

18 [**(14) Tools, implements, apparatus, team, harness or library that are nec-*
19 *essary to carry on your occupation, with a combined value not to exceed*
20 *\$5,000.*]

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

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

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

27 [*(18) Provisions and fuel for your family for 60 days.*]

28 ***(12) All of your household goods and the household goods of your**
29 **dependents, except individual items that a court determines have a**
30 **value of more than \$3,000, including but not limited to:**

1 (a) Appliances, cookware, dishes and utensils for storing food and
2 preparing meals, such as a refrigerator, stove, microwave oven or
3 other kitchen appliance;

4 (b) Food and other provisions, including medical devices, prescribed
5 health aids and medications;

6 (c) Cleaning appliances such as a clothes washer and dryer and
7 vacuum cleaner;

8 (d) Equipment for maintaining a yard;

9 (e) Radios and a television;

10 (f) Household equipment and tools necessary to operate, maintain
11 or repair a home, including heating and cooling appliances and fuel for
12 the appliances, air cleaners and security devices and equipment;

13 (g) All personal possessions, including books, clothing, pets, per-
14 sonal health aids, musical instruments, toys and recreational items,
15 computers and similar electronic devices, telephones; and

16 (h) One item of jewelry regardless of price, if the owner of the item
17 of jewelry owned the item of jewelry for at least five years before the
18 date of the judgment.

19 *(13) Items other than household goods, including tools, books,
20 software, subscriptions, electronically stored data, instruments, ma-
21 chines and equipment that you use or may use to engage in or search
22 for employment, except that a court may allow execution for specific
23 items if the court finds evidence that the aggregate value of items
24 listed in this paragraph that belong to you exceeds \$15,000 or, for farm
25 tools, equipment, crops and animals, the value exceeds \$30,000 and the
26 court permits you to specify individual items that are exempt from
27 execution.

28 *(14) A motor vehicle or an interest in a motor vehicle up to a value
29 of \$10,000.

30 [(19)] (15) One rifle or shotgun and one pistol. The combined value of all

1 firearms claimed as exempt may not exceed \$1,000.

2 [(20) *Public or private pensions.*]

3 [(21) (16) Veterans' benefits and loans.

4 [(22) (17) Medical assistance benefits.

5 [(23) (18) Health insurance proceeds and disability proceeds of life in-
6 surance policies.

7 [(24) (19) Cash surrender value of life insurance policies not payable to
8 your estate.

9 [(25) *Federal annuities.*]

10 [(26) *Other annuities to \$250 per month (excess over \$250 per month is*
11 *subject to the same exemption as wages).*]

12 [(27) (20) Professionally prescribed health aids for you or any of your
13 dependents.

14 *[(28) (21) Rental assistance to an elderly person allowed pursuant to
15 ORS 458.375.

16 [(29) (22) 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
19 of personal bodily injury suffered by you or an individual of whom you are
20 a dependent.

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

24 [(30) (23) Amounts paid to you as an earned income tax credit under
25 federal tax law.

26 [(31) (24) Your right to the assets held in, or right to receive payments
27 under, a medical savings account or health savings account authorized under
28 section 220 or 223 of the Internal Revenue Code.

29 *[(32) (25) Interest in personal property to the value of [\$400, *but this*
30 *cannot be used to increase the amount of any other exemption*] **\$1,500, except**

1 **that this exemption may not be used to increase the amount of a wage**
2 **garnishment exemption or an account garnishment exemption.**

3 [(33)] **(26)** Equitable interests in property.

4 [(34)] **(27)** Security deposits or prepaid rent held by a residential landlord
5 under ORS 90.300.

6 [(35)] **(28)** If the amount shown as owing on the Debt Calculation form
7 exceeds the amount you actually owe to the creditor, the difference between
8 the amount owed and the amount shown on the Debt Calculation form.

9

10 Note: If two or more people in your household owe the claim or judgment,
11 each of them may claim the exemptions marked by an asterisk (*) **subject**
12 **to any specified caps or other limitations.**

13

14 **Note: The amounts specified as limitations on exemptions in this**
15 **form may change as a result of changes in the Consumer Price Index.**
16 **Consult the office of the State Court Administrator for current limi-**
17 **tations.**

18 “

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

26

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

30 (1) Fill out the Challenge to Garnishment form that you received with

1 this notice.

2 (2) Mail or deliver the Challenge to Garnishment form to the court ad-
3 ministrator at the address shown on the writ of garnishment, and mail or
4 deliver a copy of the form to the Garnishor at the address shown on the writ
5 of garnishment. If you wish to claim wages or salary as exempt, you must
6 mail or deliver the form within 120 days after you receive this notice. If you
7 wish to claim that any other money or property is exempt, or claim that the
8 property is not subject to garnishment, you must mail or deliver the form
9 within 30 days after you receive this notice. You have the burden of showing
10 that your challenge is made on time, so you should keep records showing
11 when the challenge was mailed or delivered.

12 (3) The law only requires that the Garnishor hold the garnished money
13 or property for 10 days before applying it to the Creditor's use. You may be
14 able to keep the property from being used by the Creditor by promptly fol-
15 lowing (1) and (2) above.

16

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

19 **YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY**
20 **FOR THE FOLLOWING PURPOSES:**

- 21 (1) To claim such exemptions from garnishment as are permitted by law.
22 (2) To assert that property is not garnishable property under ORS 18.618.
23 (3) To assert that the amount specified in the writ of garnishment as be-
24 ing subject to garnishment is greater than the total amount owed.

25

26 **YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM**
27 **TO CHALLENGE THE VALIDITY OF THE DEBT.**

28 **IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH,**
29 **YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT**
30 **THAT COULD INCLUDE A FINE.** Penalties that you could be subject to

1 are listed in ORS 18.715.

2 When you file a Challenge to Garnishment form, the Garnishee may be
3 required to make all payments under the garnishment to the court, and the
4 Garnishor may be required to pay to the court all amounts received by the
5 Garnishor that are subject to the challenge to the garnishment. The
6 Garnishee and Garnishor are subject to penalties if they do not. For a com-
7 plete explanation of their responsibilities, see ORS 18.705 and 18.708.

8 “

9 **“SECTION 10.** ORS 87.162 is amended to read:

10 “87.162. Except as provided in ORS 87.156 and 90.120, a landlord has a lien
11 on all chattels, except wearing apparel [*as defined in ORS 18.345 (1)*], owned
12 by a tenant or occupant legally responsible for rent, brought upon the leased
13 premises, to secure the payment of rent and such advances as are made on
14 behalf of the tenant. The landlord may retain the chattels until the amount
15 of rent and advances is paid.

16 **“SECTION 11.** ORS 646.639 is amended to read:

17 “646.639. (1) As used in this section and ORS 646A.670:

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

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

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

25 “(d) ‘Credit’ means a right that a creditor grants to a consumer to defer
26 payment of a debt, to incur a debt and defer payment of the debt, or to
27 purchase or acquire property or services and defer payment for the property
28 or services.

29 “(e) ‘Creditor’ means a person that, in the ordinary course of the person’s
30 business, engages in consumer transactions that result in a consumer owing

1 a debt to the person.

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

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

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

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

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

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

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

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

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

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

30 “(b) Threatens arrest or criminal prosecution.

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

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

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

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

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

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

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

1 subparagraph, any language in any agreement, contract or instrument that
2 creates or is evidence of the debt and that purports to authorize telephone
3 calls at the debtor's place of employment does not give permission to the debt
4 collector to call the debtor at the debtor's place of employment.

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

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

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

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

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

30 “(m) Represents that an existing debt may be increased by the addition

1 of attorney fees, investigation fees or any other fees or charges if the fees
2 or charges may not legally be added to the existing debt.

3 “(n) Collects or attempts to collect interest or other charges or fees that
4 exceed the actual debt unless the agreement, contract or instrument that
5 creates the debt expressly authorizes, or a law expressly allows, the interest
6 or other charges or fees.

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

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

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

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

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

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

30 “(s) Knowingly collects **or attempts to collect** any amount, including

1 any interest fee, charge or expense incidental to the principal obligation,
2 **whether the principal obligation exists or does not exist, by any**
3 **means, including through threatening to bring or bringing any legal**
4 **action**, unless the amount is expressly authorized by the agreement creating
5 the debt or permitted by law.

6 “(t) Collects or attempts to collect a debt if the debt collector is a debt
7 buyer, or is acting on a debt buyer’s behalf, and collects or attempts to col-
8 lect purchased debt before providing to a debtor, within 30 days after the
9 date of the debtor’s request, all of the documents listed in subsection (4)(b)
10 of this section.

11 “(u) Collects or attempts to collect a debt without complying with the
12 requirements of ORS 646A.677.

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

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

19 “(a) Files legal action against a debtor or files legal action to attempt to
20 collect a debt if the debt buyer or debt collector knows or after exercising
21 reasonable diligence would know that an applicable statute of limitations
22 bars the legal action to collect or the legal action to attempt to collect the
23 debt;

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

29 “(A) The original creditor’s name, written as the original creditor used
30 the name in dealings with the debtor;

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

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

4 “(D) The last four digits of the original creditor’s account number for the
5 debt, if the original creditor’s account number for the debt had four or more
6 digits;

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

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

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

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

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

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

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

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

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

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

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

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

29 “(ii) A copy of the most recent monthly statement that shows a purchase
30 transaction or balance transfer or the debtor’s last payment, if the debtor

1 made a payment, if the debt is a credit card debt or other debt for which a
2 contract or other writing that is evidence of the debt does not exist;

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

5 “(A) Shows the name of the creditor or creditors for whom the debt buyer
6 or debt collector received the payment and, if the creditor is not the original
7 creditor, the account number that the original creditor assigned; and

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

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

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

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

24 “**SECTION 12.** ORS 646.641 is amended to read:

25 “646.641. (1) Any person injured as a result of **another person’s** willful
26 use or employment [*by another person*] of an unlawful collection practice may
27 bring an action in an appropriate court to enjoin the practice or to recover
28 actual damages or [\$200] **\$1,000**, whichever is greater. The court or the jury
29 may award punitive damages, and the court may provide such equitable relief
30 as [*it*] **the court** deems necessary or proper.

1 “[2] *In any action brought by a person under this section, the court may*
2 *award reasonable attorney fees to the prevailing party.*]

3 **“(2) The court may award reasonable attorney fees and costs at trial**
4 **and on appeal to a prevailing plaintiff in an action under this section.**
5 **The court may award reasonable attorney fees and costs at trial and**
6 **on appeal to a prevailing defendant only if the court finds that an**
7 **objectively reasonable basis for bringing the action or asserting the**
8 **ground for appeal did not exist.**

9 **“(3) Actions brought under this section [shall] must be commenced within**
10 **[one year from the date of the injury.] three years after discovery of the**
11 **unlawful method, act or practice or six years after the date of injury.**

12 **“SECTION 13. ORS 646.643 is repealed.**

13 **“SECTION 14. On the date that is one year after the effective date**
14 **of this 2023 Act, the State Court Administrator shall begin indexing**
15 **the amounts specified as maximum limits on exemptions in ORS 18.345**
16 **(1)(a) as provided in ORS 18.345 (1)(b), the exemption amounts set forth**
17 **in ORS 18.348 (1)(a) as provided in ORS 18.348 (1)(b) and the exemption**
18 **amounts set forth in ORS 18.785 (1)(a) as provided in ORS 18.785 (1)(b).**

19 **“SECTION 15. The amendments to ORS 18.345, 18.348, 18.385, 18.395,**
20 **18.402, 18.412, 18.785, 18.840, 18.845, 87.162, 646.639 and 646.641 by sections**
21 **1 to 12 of this 2023 Act and the repeal of ORS 646.643 by section 13 of**
22 **this 2023 Act apply to judgments of execution issued on or after the**
23 **effective date of this 2023 Act.**

24 **“SECTION 16. This 2023 Act takes effect on the 91st day after the**
25 **date on which the 2023 regular session of the Eighty-second Legislative**
26 **Assembly adjourns sine die.”**

27