

SB 1595 A STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Action Date: 02/14/24

Action: Do pass with amendments. Refer to Finance and Revenue then to Ways and Means by prior reference. (Printed A-Eng.)

Vote: 3-1-1-0

Yeas: 3 - Jama, Patterson, Taylor

Nays: 1 - Bonham

Exc: 1 - Hansell

Fiscal: Fiscal impact issued

Revenue: Revenue impact issued

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Meeting Dates: 2/7, 2/12, 2/14

WHAT THE MEASURE DOES:

The measure exempts from execution of a judgment or garnishment specific property and funds of a judgment debtor. It also repeals a statute providing that when a debt collector is in compliance with the Fair Debt Collection Practices Act the debt collector is also in compliance with the requirements of Oregon's debt collection practices. The measure specifies the process for a court to impose attorney fees and costs to a plaintiff or defendant following a civil action for unlawful debt collection practices and increases the amount of damage award available. Finally, the measure declares an emergency and is effective on passage.

Detailed Summary:

Section 1

Exempts from execution of a judgment a vehicle valued up to \$10,000 except when the judgment is for child or spousal support, or restitution the vehicle exemption is \$3,000.

Section 3

Increases the amount of disposable earnings exempt from the execution of a judgment starting January 1, 2025. Establishes a schedule of amount of disposable earnings to be exempt from execution of a judgment based on the wages payable within a certain year and payment type. Directs the State Court Administrator to calculate these exemption amounts each year on or before July 1, beginning 2027, and publish them on the Judicial Department website. Maintains the current amount of disposable earnings exempted from garnishment for child or spousal support, or restitution.

Section 4

Increases the amount of the homestead exemption protected from sale on the execution of a judgment or lien except for debts for child or spousal support or restitution. Directs the State Court Administrator to index the homestead exemption amount each year on or before July 1 to reflect increases or decreases based on the cost of living from the previous year and publish the adjusted exemption amounts on the Judicial Department website. Exempts the exemption adjustment for debts arising from spousal or child support, or restitution.

Section 10

Defines key terms. Specifies the process that financial institutions must take when financial institutions receive a writ of garnishment for a debtor that has an account with the financial institution.

Sections 18-19

This summary has not been adopted or officially endorsed by action of the committee.

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Specifies the notice of exemption form when a judgment debtor's debt is from child or spousal support, or restitution.

Sections 26-27

Specifies a challenge to execution form when a judgment debtor's debt is from child or spousal support, or restitution.

Section 29

Specifies that it is an unlawful collection practice for a debt collector to collect or attempt to collect by any means, including through legal action, interest or other charges or fees that exceed the actual debt unless there is an agreement or contract that expressly authorizes, or a law that allows, the interest or other charges or fees. Provides that a debt collector will not be held liable if debt collector shows by a preponderance of the evidence that the violation was not intentional and resulted from bona fide error. Specifies that it is an unlawful collection practice for debt collector to collect or attempt to collect by any means, including through legal action, a debt that the debt collector knows or should know does not exist or is not owed by the debtor. Provides that a debt collector will not be liable if the debt collector shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error.

Section 30

Increases the amount of damage award available for a civil action for unlawful debt collection practice. Specifies that a court may award reasonable attorney fees and costs to a prevailing plaintiff following a civil action for unlawful debt collection practice. Specifies that a court may award reasonable attorney fees and costs to prevailing defendant only if court finds that the plaintiff had no objectively reasonable basis for bringing the civil action for unlawful debt collection practice. Changes statute of limitation for these civil actions from within one year to within three years.

Section 31

Repeals statute providing that a debt collector subject to and in compliance with the Fair Debt Collection Practices Act is also in compliance with the requirements of Oregon's debt collection practices.

Section 32

Makes specified sections operative on January 1, 2025.

Section 34

Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Prevalence of collecting debts from the wrong person or in the wrong amount
- Impact of current property and fund exemption from garnishment and execution of judgment
- Role of Attorney General in enforcing Unlawful Debt Collection Practices Act
- Current court process for debt collection cases
- Potential impact of measure on obtaining credit

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The Unlawful Debt Collection Practices Act (UDCPA) controls how a creditor, including a collection agency, may attempt to collect a debt. Unlawful debt collection practices include the use of obscene, threatening, or abusive language; communications without permission or threats of communication with employer; communications in

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writing without clear identification of debtor and debt collector; or pursuit of debtor for an incorrect amount or for a debt not owed. A creditor who willfully violates the UDCPA may be liable for minimum damages of \$200, legal fees, and in some cases punitive damages.

Senate Bill 1595 A exempts from execution of judgment or garnishment specific property and funds of a judgment debtor and increases the amount of damage award that is available for violation of UDCPA.