

House Bill 3184

Sponsored by Representative SOSA, Senator GORSEK (at the request of Oregon Consumer Justice) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act says that a homestead may not be sold on execution for a judgment that is not more than the amount of the homestead exemption. (Flesch Readability Score: 60.0).

Provides that a homestead may not be sold on execution to satisfy a judgment that does not exceed the amount of the homestead exemption.

A BILL FOR AN ACT

1
2 Relating to the homestead exemption; creating new provisions; and amending ORS 18.395, 18.908 and
3 18.912.

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

5 **SECTION 1.** ORS 18.395, as amended by section 4, chapter 100, Oregon Laws 2024, is amended
6 to read:

7 18.395. (1)(a) Except as provided in paragraph (b) of this subsection, a homestead is exempt from
8 sale on execution, from the lien of every judgment and from liability in any form for the debts of the
9 owner to the amount in value of \$150,000, except as otherwise provided by law. The exemption is
10 effective without the necessity of a claim thereof by the judgment debtor. When two or more mem-
11 bers of a household are judgment debtors whose interests in the homestead are subject to sale on
12 execution, the lien of a judgment or liability in any form, their combined exemptions under this
13 section shall not exceed \$300,000.

14 (b) A homestead is exempt from sale on execution, from the lien of every judgment and from li-
15 ability in any form for the debts of the owner arising out of a child support or spousal support ob-
16 ligation or a money award judgment that includes restitution to the amount in value of \$40,000,
17 except as otherwise provided by law. The exemption is effective without the necessity of a claim
18 thereof by the judgment debtor. When two or more members of a household are judgment debtors
19 whose interests in the homestead are subject to sale on execution, the lien of a judgment or liability
20 in any form, their combined exemptions under this section shall not exceed \$50,000.

21 (c) To qualify for the exemption under paragraph (a) or (b) of this subsection, the homestead
22 must be the actual abode of and occupied by the owner, or the owner's spouse, parent or child, but
23 the exemption shall not be impaired by:

24 (A) Temporary removal or temporary absence with the intention to reoccupy the same as a
25 homestead;

26 (B) Removal or absence from the property; or

27 (C) The sale of the property.

28 (d)(A) The State Court Administrator shall index the amounts identified as exempt from exe-
29 cution under paragraph (a) of this subsection each year on or before July 1 to reflect increases or

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

1 decreases in the cost of living for the previous calendar year, based on changes in the Consumer
 2 Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor
 3 Statistics of the United States Department of Labor or a successor agency. The State Court Ad-
 4 ministrator shall publish the adjusted exemption limitations on the Judicial Department website. In
 5 adjusting the amounts, the State Court Administrator shall round to the nearest \$100, but shall use
 6 unrounded adjusted amounts to calculate the amounts of the exemptions during the succeeding year.
 7 The new amounts become effective on July 1 of the year in which the State Court Administrator
 8 makes the adjustment.

9 (B) The indexing described in subparagraph (A) of this paragraph does not apply to the amount
 10 of any exemption specified for a debt that arises out of a child support or spousal support obligation
 11 or a money award judgment that includes restitution.

12 (2) The exemption extends to the proceeds derived from selling the homestead in the amount
 13 that is applicable under subsection (1)(a) or (b) of this section, if the proceeds are held for a period
 14 not exceeding one year and held with the intention to procure another homestead therewith.

15 (3) The exemption period under subsection (1)(c)(B) and (C) of this section is one year from the
 16 removal, absence or sale, whichever occurs first.

17 (4) When the owner of a homestead has been granted a discharge in bankruptcy or has conveyed
 18 the homestead property, the value thereof, for the purpose of determining a leviable interest in ex-
 19 cess of the homestead exemption, is the value on the date of the petition in bankruptcy, whether the
 20 value is determined in the bankruptcy proceedings or not, or on the date the conveyance becomes
 21 effective, whichever occurs first. However, with respect to judgments not discharged in the bank-
 22 ruptcy, or entered against the owner after discharge, the value on the effective date of conveyance
 23 is controlling.

24 (5) Except as provided in subsection (7) of this section, a homestead that is the actual abode of
 25 and occupied by the judgment debtor, or that is the actual abode of and occupied by a spouse, de-
 26 pendent parent or dependent child of the judgment debtor, may not be sold on execution to satisfy
 27 a judgment that at the time of entry does not exceed ~~[\$3,000]~~ **the amount of the homestead ex-**
 28 **emption applicable under subsection (1) of this section.** However, such judgment remains a lien
 29 upon the real property, and the property may be sold on execution:

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

31 (b) At any time after the property is no longer the actual abode of and occupied by the judgment
 32 debtor or the spouse, dependent parent or dependent child of the judgment debtor.

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

36 (7) The limitation on execution sales imposed by subsection (5) of this section does not apply if
 37 two or more judgments are owing to a single judgment creditor and the total amount owing to the
 38 judgment creditor, determined by adding the amount of each individual judgment as of the date the
 39 judgment was entered, is greater than ~~[\$3,000]~~ **the amount of the homestead exemption applica-**
 40 **ble under subsection (1) of this section.**

41 (8) Upon the issuance of an order authorizing sale as required by ORS 18.904, and in conform-
 42 ance with subsection (5) of this section, the sheriff may proceed to sell the property. If the home-
 43 stead exemption applies, the sheriff shall pay the homestead owner out of the proceeds the
 44 applicable amount under subsection (1)(a) or (b) of this section and apply the balance of the proceeds
 45 on the execution. However, the sheriff may not sell the homestead if an exemption applies unless the

1 sum bid for the homestead exceeds the sum of the costs of the sale and the amount of the applicable
2 exemption. If no such bid is received, the petitioner shall bear the expense of the sale.

3 (9) The homestead exemption provided by this section applies to a purchaser's interest under a
4 land sale contract, as defined by ORS 18.960.

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

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

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

8 **SECTION 2.** ORS 18.908 is amended to read:

9 18.908. (1) At least 10 days before the hearing on a motion filed under ORS 18.906, the judgment
10 creditor must:

11 (a) Serve the judgment debtor in the manner provided by ORCP 7 with a copy of the motion and
12 the supporting affidavit, and with a notice of the time and place of the hearing; and

13 (b) Send a copy of the motion and the notice by first class mail to the property at the mailing
14 address for the property.

15 (2) The notice required by subsection (1) of this section must be in substantially the following
16 form:

17 _____

18
19 NOTICE OF HEARING ON SHERIFF'S
20 SALE OF YOUR PROPERTY

21
22 This is to notify you that _____ has asked the court to order the sheriff to sell property lo-
23 cated at _____ to satisfy a judgment against _____.

24 Before deciding whether to order the sale, the court will hold a hearing on _____, 2_____, at
25 _____ a.m./p.m., in Room _____, _____.

26 The law provides that property is your homestead if the property is actually used as a home by
27 you, your spouse, a dependent parent or a dependent child. If you are temporarily absent from the
28 property but intend to move back in, the property is still your homestead.

29 The law provides that if the property is your homestead, then \$_____ of its value may not be
30 taken to satisfy a judgment against you. In addition, a homestead usually may not be sold to satisfy
31 a judgment for [~~\$3,000~~] **the amount of the homestead exemption applicable under ORS 18.395**
32 **(1)**, or less.

33 The law provides that property may be sold despite the fact that it is your homestead and all
34 of its value may be taken to satisfy a judgment against you if the judgment is for child support.

35 IF YOU WISH TO PROTECT THIS PROPERTY FROM A SHERIFF'S SALE, YOU SHOULD
36 COME TO THE COURT HEARING.

37 IF YOU HAVE ANY QUESTIONS, YOU SHOULD SEE A LAWYER AT ONCE.

38 If you do not own this property, please give this notice and the papers served with it to the
39 owner.

40 _____

41
42 **SECTION 3.** ORS 18.912 is amended to read:

43 18.912. (1) Whether or not the judgment debtor appears at the hearing, the court shall inquire
44 as to the facts alleged in a motion filed under ORS 18.906 and make a summary determination on
45 the motion.

1 (2) The court shall authorize sale of the property pursuant to a motion filed under ORS 18.906
2 unless the court finds:

3 (a) That the property is the homestead of the judgment debtor;

4 (b) That the judgment is subject to the homestead exemption; and

5 (c) That the amount of the judgment or judgments was [~~\$3,000~~] **the amount of the homestead**
6 **exemption applicable under ORS 18.395 (1)** or less at the time of entry of the judgment or judg-
7 ments as described in ORS 18.395 (7).

8 (3) If the court authorizes the sale of residential property, the order must state whether the
9 homestead exemption applies to the property. If the homestead exemption does apply to the property,
10 the order must state the allowed amount of the exemption.

11 (4) If the court authorizes the sale of residential property, the judgment creditor may recover
12 the costs of service of the motion and notice under ORS 18.908 as part of the costs of the sale.

13 **SECTION 4. The amendments to ORS 18.395, 18.908 and 18.912 by sections 1 to 3 of this**
14 **2025 Act apply to judgments entered on or after the effective date of this 2025 Act.**

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