

Chapter 18

2013 EDITION

Judgments

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DEFINITIONS

18.005 Definitions. As used in this chapter:

(1) “Action” means any proceeding commenced in a court in which the court may render a judgment.

(2) “Child support award” means a money award or agency order that requires the payment of child support and that is entered under ORS 108.010 to 108.550, 416.310 to 416.340, 416.400 to 416.465, 416.510 to 416.990, 419B.400 or 419C.590 or ORS chapter 25, 107, 109 or 110.

(3) “Civil action” means any action that is not a criminal action.

(4) “Court administrator” means a trial court administrator in a circuit court that has a trial court administrator and the clerk of the court in all other courts.

(5) “Criminal action” has the meaning given in ORS 131.005.

(6) “Execution” means enforcement of the money award portion of a judgment or enforcement of a judgment requiring delivery of the possession or sale of specific real or personal property, by means of writs of execution, writs of garnishment and other statutory or common law writs or remedies that may be available under the law.

(7) “General judgment” means the judgment entered by a court that decides all requests for relief in the action except:

(a) A request for relief previously decided by a limited judgment; and

(b) A request for relief that may be decided by a supplemental judgment.

(8) “Judgment” means the concluding decision of a court on one or more requests for relief in one or more actions, as reflected in a judgment document.

(9) “Judgment document” means a writing in the form provided by ORS 18.038 that incorporates a court’s judgment.

(10) “Judgment lien” means:

(a) The effect of a judgment on real property as described in ORS 18.150 (2) and (3) for the county in which the judgment is entered, and as described in ORS 18.152 (2) and (3) for a county in which the judgment is recorded under ORS 18.152; and

(b) A support arrearage lien attaching to real property under ORS 18.150 (3) or 18.152 (3).

(11) “Judgment remedy” means:

(a) The ability of a judgment creditor to enforce a judgment through execution; and

(b) Any judgment lien arising under ORS 18.150 or 18.152.

(12) “Legal authority” means:

(a) A statute;

(b) An Oregon Rule of Civil Procedure;

(c) A rule or order of the Chief Justice of the Supreme Court adopted under ORS 18.028; and

(d) All controlling appellate court decisions in effect December 31, 2003.

(13) “Limited judgment” means:

(a) A judgment entered under ORCP 67 B or 67 G;

(b) A judgment entered before the conclusion of an action in a circuit court for the partition of real property, defining the rights of the parties to the action and directing sale or partition;

(c) An interlocutory judgment foreclosing an interest in real property; and

(d) A judgment rendered before entry of a general judgment in an action that disposes of at least one but fewer than all requests for relief in the action and that is rendered pursuant to a legal authority that specifically authorizes that disposition by limited judgment.

(14) “Money award” means a judgment or portion of a judgment that requires the payment of money.

(15) “Person” includes a public body as defined in ORS 174.109.

(16) “Request for relief” means a claim, a charge in a criminal action or any other request for a determination of the rights and liabilities of one or more parties in an action that a legal authority allows the court to decide by a judgment.

(17) “Supplemental judgment” means a judgment that may be rendered after a general judgment pursuant to a legal authority.

(18) “Support arrearage lien” means a lien that attaches to real property under the provisions of ORS 18.150 (3) or 18.152 (3).

(19) “Support award” means a money award or agency order that requires the payment of child or spousal support. [2003 c.576 §1; 2005 c.542 §55; 2005 c.568 §4]

Note: Section 7, chapter 568, Oregon Laws 2005, provides:

Sec. 7. Sections 2 [18.245] and 6 [18.029] of this 2005 Act and the amendments to ORS 18.005 by section 4 of this 2005 Act apply to all judgments entered on or after January 1, 2004. [2005 c.568 §7]

Note: Sections 45 and 569 (1) and (2), chapter 576, Oregon Laws 2003, provide:

Sec. 45. (1) Except as provided by this section or by sections 1 to 44 of this 2003 Act [ORS chapter 18], sections 1 to 44 of this 2003 Act apply only to judgments entered on or after the effective date of this 2003 Act [January 1, 2004]. Nothing in this 2003 Act affects the validity, lien effect or enforceability of any judgment or decree entered before the effective date of this 2003 Act. Nothing in this 2003 Act affects the validity, lien

effect or enforceability of any order or warrant docketed or recorded before the effective date of this 2003 Act. Except as provided by this section or sections 1 to 44 of this 2003 Act, any judgment or decree entered before the effective date of this 2003 Act, and any order or warrant docketed or recorded before the effective date of this 2003 Act, shall continue to be governed by the law in effect on the day immediately preceding the effective date of this 2003 Act.

(2) Section 12 of this 2003 Act [18.107] applies to any corrected judgment entered on or after the effective date of this 2003 Act, without regard to whether the original judgment is entered before, on or after the effective date of this 2003 Act.

(3) A judgment creditor may create a judgment lien for a judgment in a county other than the county in which a judgment is entered in the manner provided by section 15 of this 2003 Act [18.152] without regard to whether the judgment is entered before, on or after the effective date of this 2003 Act.

(4) Section 17 of this 2003 Act [18.158] applies to all judgments, whether entered before, on or after the effective date of this 2003 Act.

(5) Except as provided in sections 21 [18.190] and 22 [18.192] of this 2003 Act, sections 18 [18.180] and 19 [18.182] of this 2003 Act apply to all judgments, whether entered before, on or after the effective date of this 2003 Act. Notwithstanding section 19 of this 2003 Act, any order of renewal entered before the effective date of this 2003 Act may be recorded in the manner provided by section 19 (6) of this 2003 Act with the effect provided by section 15 (4) of this 2003 Act.

(6) Section 23 of this 2003 Act [18.200] applies to the release of any judgment lien after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(7) Section 24 of this 2003 Act [18.205] applies to the assignment of any judgment after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(8) Section 25 of this 2003 Act [18.225] applies to any satisfaction of judgment filed with a court on or after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(9) Sections 26 [18.228] and 27 [18.232] of this 2003 Act apply to all judgments, whether entered before, on or after the effective date of this 2003 Act.

(10) Section 28 of this 2003 Act [18.235] applies to any motion for an order declaring that a money award has been satisfied, or to determine the amount necessary to satisfy a money award, filed with a court on or after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(11) Sections 29 [18.252] and 30 [18.255] of this 2003 Act apply to execution on any judgment, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(12) Sections 31 [18.265] and 32 [18.268] of this 2003 Act apply to any motion for a debtor examination made on or after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(13) Section 33 of this 2003 Act [18.270] applies to any written interrogatories served on or after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act.

(14) Sections 34 to 44 of this 2003 Act [18.465 to 18.476 and 18.492 to 18.518, both 2003 Edition] apply to

any writ of execution issued on or after the effective date of this 2003 Act, without regard to whether the judgment was entered before, on or after the effective date of this 2003 Act. [2003 c.576 §45]

Sec. 569. (1) Except as specifically provided by this 2003 Act, the deletions of statutory references to decrees and the substitutions of references to judgments that are made by the provisions of this 2003 Act do not affect the determination as to whether a person has a right to a jury trial, the scope of review of the court's decision under ORS 19.250, or any other procedural or substantive aspect of the proceedings giving rise to the court's decision in an action.

(2) Except as specifically provided by this 2003 Act, the elimination of statutory references to dockets by this 2003 Act does not affect the validity, lien effect or enforceability of any judgment docketed before the effective date of this 2003 Act [January 1, 2004]. [2003 c.576 §569(1),(2)]

18.010 [Amended by 1977 c.208 §1; 1979 c.284 §50; repealed by 1981 c.898 §53]

18.015 Statutory references to decrees and judgments. (1) References in the statutes of this state to decrees include judgments, and references in the statutes of this state to judgments include decrees.

(2) References in the statutes of this state to judgments of other states include decrees of other states, and references in the statutes of this state to decrees of other states include judgments of other states. [2003 c.576 §1a]

18.020 [Repealed by 1979 c.284 §199]

APPLICATION

18.025 Courts subject to chapter. Except as specifically provided by this chapter, the provisions of this chapter apply to circuit courts, municipal courts and justice courts and to county courts performing judicial functions. [2003 c.576 §2]

GENERAL PROVISIONS RELATING TO JUDGMENTS

18.028 Authority of Chief Justice. The Chief Justice of the Supreme Court by rule or order may:

(1) Authorize or require that specified requests for relief that are not governed by other legal authority be decided by judgment; and

(2) Authorize or require the use of a limited or supplemental judgment for specified requests for relief that are not governed by other legal authority. [2005 c.568 §3]

18.029 Effect of chapter on use of judgment. The provisions of this chapter do not impose any requirement that a court use a judgment for the court's concluding decision on a request for relief if a legal authority allows or requires that the court decide the request for relief by order or other means. [2005 c.568 §6]

Note: See first note under 18.005.

18.030 [Amended by 1973 c.207 §1; 1977 c.616 §1; repealed by 1981 c.898 §53]

18.031 Contents of supplemental judgments. Except as provided in ORS 416.440 (5), a supplemental judgment may only contain provisions that were not included in the general judgment. [2009 c.484 §7; 2013 c.183 §4]

FORM OF JUDGMENT DOCUMENT

18.035 Preparation of judgment document. (1) In a civil action, the court may designate one of the parties to prepare a proposed judgment document. If the court does not designate a party to prepare a proposed judgment document, the prevailing party shall prepare a proposed judgment document. If more than one party has prevailed in the action, the prevailing parties may agree to designate one of the prevailing parties to prepare a proposed judgment document. Nothing in this subsection prevents any party to a civil action from preparing and submitting a proposed judgment document to the court.

(2) In criminal actions and juvenile proceedings under ORS chapters 419A, 419B and 419C, the judge shall ensure that a judgment document complying with ORS 18.038 and 18.048 is created and filed. [2003 c.576 §3; 2005 c.568 §11]

18.038 Form of judgment document generally. (1) A judgment document must be plainly titled as a judgment.

(2) The title of a judgment document must indicate whether the judgment is a limited judgment, a general judgment or a supplemental judgment. This subsection does not apply to:

(a) Justice courts, municipal courts and county courts performing judicial functions.

(b) Judgments in criminal actions.

(c) Judgments in juvenile proceedings under ORS chapters 419A, 419B and 419C.

(3) A judgment document must be separate from any other document in the action. The judgment document may have attached affidavits, certificates, motions, stipulations and exhibits as necessary or proper in support of the judgment.

(4) A judgment document must include:

(a) The name of the court rendering the judgment and the file number or other identifier used by the court for the action or actions decided by the judgment;

(b) The names of any parties in whose favor the judgment is given and the names of any parties against whom the judgment is given; and

(c) The signature of the judge rendering the judgment, or the signature of the court

administrator if the court administrator is authorized by law to sign the judgment document, and the date the judgment document is signed.

(5) This section does not apply to any foreign judgment filed with a court under ORS 24.115 or 110.405. [2003 c.576 §4; 2005 c.568 §38]

18.040 [Repealed by 1981 c.898 §53]

18.042 Judgment in civil action that includes money award. (1) The judgment document for a judgment in a civil action that includes a money award must contain a separate section clearly labeled as a money award. Any judgment in a civil action that includes a money award, but does not contain a separate section clearly labeled as a money award, does not create a judgment lien but may be enforced by any other judgment remedy.

(2) The separate section required by subsection (1) of this section must include all of the following:

(a) The name and address of each judgment creditor and the name, address and telephone number of any attorney who represents one or more of the judgment creditors.

(b) The name of each judgment debtor and, to the extent known by the judgment creditor:

(A) The address of each judgment debtor;

(B) The year of birth of each judgment debtor;

(C) The tax identification number of each judgment debtor, or the final four digits of the Social Security number of each judgment debtor;

(D) The final four digits of the driver license number of each judgment debtor and the name of the state that issued the license; and

(E) The name of any attorney for each judgment debtor.

(c) The name of any person or public body, as defined in ORS 174.109, other than the judgment creditor's attorney, that is known by the judgment creditor to be entitled to any portion of the money award.

(d) The amount of money awarded in the judgment, exclusive of amounts required to be included in the separate section under paragraphs (e) to (h) of this subsection.

(e) Any interest owed as of the date the judgment is entered in the register, either as a specific amount or as accrual information, including the rate or rates of interest, the balance or balances upon which interest accrues, the date or dates from which interest at each rate on each balance runs, and

whether interest is simple or compounded and, if compounded, at what intervals.

(f) Information about interest that accrues on the judgment after entry in the register, including the rate or rates of interest, the balance or balances upon which interest accrues, the date or dates from which interest at each rate on each balance runs, and whether interest is simple or compounded and, if compounded, at what intervals.

(g) For monetary obligations that are payable on a periodic basis, any accrued arrearages, required further payments per period and payment dates.

(h) If the judgment requires the payment of costs and disbursements or attorney fees, a statement indicating that the award is made, any specific amounts awarded, a clear identification of the specific requests for relief for which any attorney fees are awarded and the amount of attorney fees awarded for each request for relief.

(3) The information required by subsection (2) of this section must be set forth in the money award section of the judgment document in the same order as the requirements appear in subsection (2) of this section.

(4) The separate section required by subsection (1) of this section must be placed immediately above the judge's or court administrator's signature. The separate section must be clearly labeled at its beginning as a money award. If the judgment includes a support award, the label of the separate section must so indicate. Except for information described in ORS 24.290, the separate section of the judgment document may not contain any provision except the information required by this section.

(5) The provisions of this section do not apply to foreign judgments that are filed with a court under ORS 24.115 or 110.405. If a foreign judgment is filed with the court under ORS 24.115, the separate statement required by ORS 24.125 must be filed with the foreign judgment. [2003 c.576 §5; 2005 c.568 §12; 2007 c.339 §1; 2009 c.230 §1]

Note: Section 6 (1), chapter 230, Oregon Laws 2009, provides:

Sec. 6. (1) The amendments to ORS 18.042 by section 1 of this 2009 Act apply only to judgments entered on or after the effective date of this 2009 Act [June 4, 2009]. [2009 c.230 §6(1)]

18.048 Judgment in criminal action that contains money award. (1) Except as provided in this section, the judgment document in a criminal action that contains a money award, whether by reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and disbursements or any other monetary obli-

gation, must contain a separate section clearly labeled at its beginning as a money award. The separate section must be placed immediately above the judge's or court administrator's signature. If the judgment includes an award of restitution, the label of the separate section must so indicate.

(2) The separate money award section described by subsection (1) of this section must contain the following information:

(a) A listing of the specific amounts awarded as fines, assessments, costs, restitution and any other monetary obligations imposed in the sentence as part of the money award. If the court is unable to determine the full amount of restitution at the time of sentencing, the court may include the amount that can be determined or may establish a maximum amount.

(b) If restitution or a compensatory fine is ordered, the name and address of the person to whom the court should disburse payments, unless the victim requests that this information be exempt from disclosure in the public record.

(c) A statement that, subject to amendment of a judgment under ORS 137.107, money required to be paid as a condition of probation remains payable after revocation of probation only if the amount is included in the money award portion of the judgment document, even if the amount is referred to in other parts of the judgment document.

(d) Unless immediate payment is required, the specific terms of payment imposed or allowed by the court.

(e) If payment of all or part of a monetary obligation is suspended, a statement specifying the nature and amount of the suspended obligations.

(3) The requirements of this section and ORS 18.038 do not apply to a judgment document if the action was commenced by the issuance of a uniform citation adopted under ORS 1.525 and the court has used the space on the citation for the entry of a judgment. The exemption provided by this subsection does not apply if any indictment, information or complaint other than a uniform citation is filed in the action.

(4) If a judgment is for conviction of a violation as described in ORS 153.008, the judgment creates a lien only if the court so orders. If a judgment does not create a lien under this subsection, the judgment document need not contain the separate money award section described by subsection (1) of this section.

(5) A judgment in a criminal action that contains a money award is a judgment in favor of the state and may be enforced only by the state.

(6) A judgment in a criminal action that includes a money award, but does not contain a separate section clearly labeled as a money award, does not create a judgment lien but may be enforced by any other judgment remedy. [2003 c.576 §6; 2005 c.566 §13; 2005 c.568 §13; 2005 c.618 §3a]

Note: Section 8 (1), chapter 618, Oregon Laws 2005, provides:

Sec. 8. (1) The amendments to ORS 18.048, 18.075, 18.180 and 18.194 by sections 1 to 4 of this 2005 Act apply to judgments entered on or after the effective date of this 2005 Act [January 1, 2006]. [2005 c.618 §8(1)]

18.049 Adjustments to money awards.

After entry of a judgment, the amount owing on the money award portion of a judgment shall be decreased by all payments made by or on behalf of the judgment debtor against the money award and shall be increased by interest accruing on the money award. In addition, the judgment creditor is entitled to recover the expenses specified in ORS 18.999 that are incurred by the judgment creditor in collecting on the judgment, in the manner provided by ORS 18.999. This section does not impose any duty on a court administrator to calculate the amount owing on the money award portion of a judgment. [2007 c.166 §5]

18.050 [Amended by 1959 c.638 §6; repealed by 1981 c.898 §53]

18.052 Duty of judge with respect to form of judgment document.

(1) A judge rendering a judgment shall file with the court administrator a judgment document that incorporates the judgment. The judge must sign the judgment document unless the court administrator is authorized by law to sign the judgment document. Before signing a judgment document, the judge shall ensure that all requirements imposed by law for entry of the judgment have been fulfilled, including the making of any written findings of fact or conclusions of law. If a proposed judgment document submitted under ORS 18.035 does not comply with the requirements of ORS 18.038, 18.042 and 18.048, the judge may not sign the judgment document. If a proposed judgment document submitted under ORS 18.035 establishes paternity or includes a provision concerning support, but does not comply with the requirements of ORS 25.020 (8), the judge may not sign the judgment document. Unless the judgment is exempt under ORS 18.038 (2), the judge shall ensure that the title of the judgment document indicates whether the judgment is a limited judgment, general judgment or supplemental judgment. If the judgment is a limited judgment rendered under the provisions of ORCP 67 B, the judge must determine that there is no just reason for delay, but the judgment document need not reflect that determination if the title of the judgment document indicates that the judgment is a limited judgment.

ment document indicates that the judgment is a limited judgment.

(2) A court administrator who signs a judgment under authority granted by law has the same duties as a judge under the provisions of this section.

(3) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §7; 2005 c.561 §1; 2005 c.568 §14]

18.058 Duty of court administrator with respect to form of judgment document.

(1) Except as provided in subsection (2) of this section, the court administrator shall note in the register that a judgment document has been filed if the judgment document is signed by a judge of the court, or by the court administrator if the court administrator is authorized by law to sign the judgment document, and filed with the court administrator, whether or not the judgment document complies with the requirements of ORS 18.038, 18.042 and 18.048.

(2) If the title of a document filed with the court administrator indicates that the document is a decree, or indicates that the document is a judgment but fails to indicate whether the judgment is a limited judgment, general judgment or supplemental judgment, the court administrator may not note in the register that a judgment document has been filed, and shall return the document to the judge, unless the judgment is exempt under ORS 18.038 (2).

(3) The court administrator may rely on a judgment document for entry of information in the register. The court administrator is not liable for entering any information in the register that reflects information contained in a judgment document, whether or not the information in the judgment is correct or properly presented.

(4) The court administrator may rely on the presence or absence of a separate section in the judgment document required by ORS 18.042 or 18.048 in determining whether a judgment contains a money award. The court administrator shall enter information in the register and in the judgment lien record only from the separate section unless otherwise ordered by the court.

(5) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §8; 2007 c.339 §3]

18.060 [Amended by 1979 c.284 §51; repealed by 1981 c.898 §53]

18.062 Use of electronic judgment forms. The provisions of this chapter do not affect the ability of the Chief Justice of the Supreme Court to authorize the use of elec-

tronic judgment forms pursuant to rules adopted under ORS 1.002 (2). [2005 c.568 §41]

18.070 [Repealed by 1981 c.898 §53]

ENTRY OF JUDGMENTS IN REGISTER

18.075 Entry of judgments in circuit courts generally. (1) A judgment is entered in circuit court when a court administrator notes in the register that a judgment document has been filed with the court administrator.

(2) Subject to ORS 18.058 (2), when a judge files a judgment document with the court administrator, the court administrator shall note in the register:

(a) That the judgment document has been filed and the day, hour and minute that the judgment is entered.

(b) Whether the judgment is a limited judgment, a general judgment or a supplemental judgment.

(c) Whether the judgment includes a money award.

(d) Whether the judgment creates a judgment lien under ORS 18.150.

(3) If the court administrator notes in the register that a judgment creates a judgment lien, the court administrator shall note in a judgment lien record maintained by the court administrator:

(a) The name of all judgment debtors.

(b) The name of all judgment creditors.

(c) The amount of the money award.

(d) Whether the money award includes a support award or an award of restitution.

(4) If the court administrator makes a notation of judgment in the judgment lien record, the court administrator shall thereafter also note in the judgment lien record:

(a) The date on which any appeal is filed.

(b) Whether a supersedeas undertaking, as defined in ORS 19.005, is filed.

(c) The date of any decision on appeal.

(d) Any execution issued by the court and the return on any execution.

(e) Any satisfaction of the judgment, when entered.

(f) Other such information as may be deemed necessary by court order or court rule.

(5) The court administrator shall enter a judgment in the register within 24 hours after the judgment document is filed with court administrator, excluding Saturdays and legal holidays. If the court administrator is not able to enter the judgment within the time prescribed in this subsection, or fails to

do so, the court administrator shall enter the judgment as soon as practicable thereafter.

(6) Except as provided in ORS 18.058, the court administrator shall be subject to the direction of the court in entering judgments in the register.

(7) The court administrator shall not delay entry of judgment under ORCP 68 for taxation of attorney fees or costs and disbursements.

(8) Administrative orders entered in the register under ORS 416.440 have the effect provided for in that section.

(9) The State Court Administrator shall ensure that the register and the judgment lien record be established and maintained in a uniform manner in the circuit courts.

(10) References in Oregon Revised Statutes to docketing of a judgment are equivalent to entry of a judgment as described in subsection (1) of this section.

(11) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §9; 2005 c.568 §15; 2005 c.618 §2; 2007 c.339 §2; 2011 c.398 §1]

Note: Section 9a, chapter 576, Oregon Laws 2003, provides:

Sec. 9a. (1) Notwithstanding any other provision of sections 1 to 44 of this 2003 Act [ORS chapter 18] or any other law, a court administrator need not make any entry in the register or in the separate record maintained under section 9 of this 2003 Act [18.075] that is different from the entries made by the court administrator before the effective date of this 2003 Act [January 1, 2004] until such time as funding is available to make such modifications as may be necessary to accommodate those entries in the computer systems utilized by the circuit courts.

(2) All references to the docket in computer records and documents of the circuit courts shall be construed to be references to the separate record maintained under section 9 of this 2003 Act, without regard to whether those records or documents are created before, on or after the effective date of this 2003 Act. Subject to availability of funding, the circuit courts shall make such changes in their computer systems and other document-generating systems as soon as possible after the effective date of this 2003 Act to eliminate references to the docket.

(3) All references to decrees in computer records and documents of the circuit courts shall be construed to be references to judgments, without regard to whether those records or documents are created before, on or after the effective date of this 2003 Act. Subject to availability of funding, the circuit courts shall make such changes in their computer systems and other document-generating systems as soon as possible after the effective date of this 2003 Act to eliminate references to decrees.

(4) All references to money judgments in computer records and documents of the circuit courts shall be construed to be references to money awards, without regard to whether those records or documents are created before, on or after the effective date of this 2003 Act. Subject to availability of funding, the circuit courts shall make such changes in their computer systems and other document-generating systems as soon as possible after the effective date of this 2003 Act to eliminate references to money judgments. [2003 c.576 §9a]

Note: See note under 18.048.

18.078 Notice of entry of judgment in circuit court civil action. (1) Upon entering a judgment in a civil action, or entry of any corrected judgment under ORS 18.107, the court administrator shall mail the notice described in subsection (2) of this section to the attorneys of record for each party that is not in default for failure to appear. If a party does not have an attorney of record, and is not in default for failure to appear, the court administrator shall mail the notice to the party. The court administrator shall note in the register that the notice required by this section was mailed as required by this section.

(2) The notice required by this section must reflect:

(a) The date the judgment was entered.

(b) Whether the judgment was entered as a limited judgment, a general judgment or a supplemental judgment.

(c) Whether the court administrator noted in the register that the judgment contained a money award.

(d) Whether the court administrator noted in the register that the judgment creates a judgment lien.

(3) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

(4) This section does not apply to judgments in juvenile proceedings under ORS chapter 419A, 419B or 419C, civil commitment proceedings, probate proceedings, adoptions or guardianship or conservatorship proceedings under ORS chapter 125. [2003 c.576 §10; 2005 c.568 §16]

Note: Section 10a, chapter 576, Oregon Laws 2003, provides:

Sec. 10a. Notwithstanding any other provision of sections 1 to 44 of this 2003 Act [ORS chapter 18] or any other law, a court administrator need not mail notice of judgment in the form provided by section 10 of this 2003 Act [18.078] and may continue to use the form of notice used by the court administrator before the effective date of this 2003 Act [January 1, 2004] until such time as funding is available to allow use of notices of judgments in the form provided by section 10 of this 2003 Act. [2003 c.576 §10a]

18.080 [Amended by 1971 c.365 §1; repealed by 1981 c.898 §53]

18.082 Effect of entry of judgment. (1) Upon entry of a judgment, the judgment:

(a) Becomes the exclusive statement of the court's decision in the case and governs the rights and obligations of the parties that are subject to the judgment;

(b) May be enforced in the manner provided by law;

(c) May be appealed in the manner provided by law;

(d) Acts as official notice of the court's decision; and

(e) May be set aside or modified only by the court rendering the judgment or by another court or tribunal with the same or greater authority than the court rendering the judgment.

(2) A general judgment incorporates a previous written decision of the court that decides one or more requests for relief in the case and that:

(a) Is not a judgment;

(b) Is consistent with the terms of the general judgment and any limited judgments in the case; and

(c) Reflects an express determination by the court that the decision be conclusive as to the requests for relief that are resolved.

(3) Upon entry of a general judgment, any request for relief in the action that is not decided by the general judgment or by a previous limited judgment, that has not been incorporated into the general judgment under subsection (2) of this section, or that cannot be decided by a supplemental judgment, is dismissed with prejudice unless the judgment provides that the dismissal is without prejudice.

(4) Subsection (3) of this section does not affect the right of any party to assign error on appeal to any decision of a court made by order during an action.

(5) Subsection (3) of this section does not apply to a general judgment of dismissal. Except as otherwise provided by law, by the Oregon Rules of Civil Procedure or by the terms of the judgment, a general judgment of dismissal is without prejudice as to any request for relief in the action.

(6) If a document labeled as a decree is filed with the court administrator, or a judgment document is filed with the court administrator that does not indicate whether the judgment is a limited, general or supplemental judgment, and the court administrator fails to comply with ORS 18.058 and makes an entry in the register indicating that a judgment has been filed with court administrator, the document has the effect of a general judgment entered in circuit court. [2003 c.576 §11; 2005 c.568 §17]

18.090 [Amended by 1979 c.284 §52; repealed by 1981 c.898 §53]

18.100 [Repealed by 1981 c.898 §53]

18.105 [1975 c.106 §1; 1977 c.208 §2; repealed by 1979 c.284 §199]

CORRECTIONS TO JUDGMENTS**18.107 Corrections to civil judgments.**

(1) A court may correct the terms of a civil judgment previously entered as provided in ORCP 71. The court may make the correction by signing a corrected judgment document and filing the document with the court administrator. The title of the judgment document must reflect that the judgment is a corrected limited judgment, corrected general judgment or a corrected supplemental judgment.

(2) Unless a correction to a judgment affects a substantial right of a party, the time for appeal of the judgment commences upon entry of the original judgment.

(3) If the correction of a judgment affects a substantial right of a party, and the corrected judgment is entered before the time for appealing the original judgment has expired, the time for appeal of the judgment commences upon entry of the corrected judgment. If the correction affects a substantial right of a party, and the corrected judgment is entered after the time for appealing the original judgment has expired, the time for appeal of the corrected portions of the judgment and all other portions of the judgment affected by the correction commences upon entry of the corrected judgment.

(4) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

(5) This section does not apply to juvenile proceedings under ORS chapter 419B. [2003 c.576 §12]

18.110 [Repealed by 1981 c.898 §53]

18.112 Correction of designation of judgment as general judgment. (1) Upon motion of any party, the court may enter a corrected judgment under ORS 18.107 that changes the designation of a judgment from a general judgment to a limited judgment if the moving party establishes that:

(a) Except by operation of ORS 18.082 (3), the judgment does not decide all requests for relief in the action other than requests for relief previously decided by a limited judgment or requests for relief that could be decided by a supplemental judgment; and

(b) The judgment was inadvertently designated as a general judgment under circumstances that indicate that the moving party did not reasonably understand that the requests for relief that were not expressly decided by the judgment would be dismissed.

(2) A motion under subsection (1) of this section must be filed within the time provided by ORCP 71 B.

(3) Upon motion of any party, the court shall enter a corrected judgment under ORS 18.107 that changes to a limited judgment any document that has the effect of a general judgment under the provisions of ORS 18.082 (6) unless all requests for relief in the action are decided by the terms of the document, by previous limited judgments entered in the action or by written decisions of the court that are incorporated in a general judgment under the provisions of ORS 18.082 (2).

(4) Notwithstanding ORS 18.107, the time for appeal of the judgment corrected under this section commences from the entry of the corrected judgment. A motion may be filed under this section while an appeal is pending as provided in ORCP 71 B(2).

(5) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §13; 2005 c.568 §18]

18.115 [1975 c.623 §12; 1979 c.284 §53; repealed by 1981 c.898 §53]

18.120 [Repealed by 1981 c.898 §53]

18.125 [1977 c.208 §3; repealed by 1981 c.898 §53]

18.130 [Repealed by 1977 c.208 §5]

18.135 [Formerly 15.100; repealed by 1981 c.898 §53]

18.140 [Amended by 1957 c.348 §1; 1973 c.207 §2; repealed by 1979 c.284 §199]

JUDGMENT LIENS

18.150 Judgment liens in circuit courts. (1) If a judgment document filed with a court administrator under ORS 18.075 (2) includes a money award and complies with ORS 18.042 (1) or 18.048 (1), the court administrator shall note in the register of a circuit court that the judgment creates a judgment lien unless:

(a) The judgment is entered in the small claims department of a circuit court in an amount of less than \$3,000, exclusive of costs, and the judgment creditor has not created a judgment lien for the judgment as provided in ORS 46.488;

(b) The judgment is entered in a criminal action for conviction of a violation, and the court does not order under ORS 18.048 (4) that the judgment creates a judgment lien;

(c) The judgment is entered under ORS 153.820; or

(d) The judgment does not create a lien by operation of other law.

(2) Except as provided in this section, if the court administrator notes in the register that a judgment creates a judgment lien, the judgment has the following effect in the county in which the judgment is entered:

(a) When the judgment is entered, the judgment lien attaches to all real property

of the judgment debtor in the county at that time; and

(b) The judgment lien attaches to all real property that the judgment debtor acquires in the county at any time after the judgment is entered and before the judgment lien expires.

(3) Except as provided in this section, if the court administrator notes in the register that a judgment creates a judgment lien and the judgment contains a support award, the support award portion of the judgment has the following effect in the county in which the judgment is entered:

(a) Any lump sum support award existing when the judgment is entered creates a support arrearage lien and has the effect specified by subsection (2) of this section;

(b) When an installment becomes due under the terms of the support award and is not paid, a support arrearage lien for the unpaid installment attaches to all real property of the judgment debtor in the county at that time; and

(c) When an installment becomes due under the terms of the support award and is not paid, a support arrearage lien attaches to all real property that the judgment debtor thereafter acquires in the county for the purpose of enforcing the unpaid installment, and remains attached to that property until satisfaction is made for the installment or the judgment lien arising from support award portion of the judgment expires.

(4) Real property may be conveyed or encumbered free of a judgment lien created by the support award portion of a judgment, but the conveyance or encumbrance is subject to any support arrearage lien that attached to the real property under this section or ORS 18.152.

(5) A judgment lien does not attach to any real property of a judgment debtor acquired after the debt giving rise to the judgment is discharged under federal bankruptcy laws. Debts are presumed to have not been discharged in bankruptcy until the judgment debtor establishes that the debt has been discharged.

(6) A court administrator may rely on the judgment document to determine whether a judgment creates a judgment lien.

(7) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §14; 2005 c.568 §19]

18.152 Establishing judgment liens in other counties. (1) At any time after a judgment that creates a judgment lien is entered under ORS 18.150 and before the expiration of the judgment remedies for the

judgment, a judgment creditor may create a judgment lien for the judgment in any other county of this state by recording the judgment in the County Clerk Lien Record for that county. The judgment may be recorded by recording a certified copy of the judgment document or a lien record abstract for the judgment.

(2) Except as provided in this section, a judgment recorded under this section has the following effect in the county in which the judgment is recorded:

(a) When the judgment is recorded, the judgment lien attaches to all real property of the judgment debtor in the county at that time; and

(b) The judgment lien attaches to all real property that the judgment debtor acquires in the county at any time after the judgment is recorded and before the judgment lien expires.

(3) Except as provided in this section, if a judgment recorded under this section contains a support award, the support award portion of the judgment has the following effect in the county in which the judgment is recorded:

(a) When the judgment is recorded, a support arrearage lien attaches to all real property of the judgment debtor in the county at that time for any unpaid lump sum support award contained in the judgment or any unpaid installment that became due under the terms of the support award before the judgment was recorded.

(b) A support arrearage lien for any unpaid lump sum support award contained in the judgment or any unpaid installment that became due under the terms of the support award before the judgment was recorded attaches to all real property that the judgment debtor acquires in the county at any time after the judgment is recorded and before full satisfaction is made for the lump sum or installment or the judgment lien of the support award portion of the judgment expires.

(c) If an installment becomes due under the terms of the support award and is not paid after the judgment is recorded, a support arrearage lien for the installment attaches to all real property of the judgment debtor in the county at the time the installment becomes due and attaches to all real property that the judgment debtor thereafter acquires in the county until full satisfaction is made for the installment or the judgment lien of the support award portion of the judgment expires.

(4)(a) If a certificate of extension is filed under ORS 18.182, and the certificate is filed before the judgment is recorded under this section, a judgment creditor may record a

certified copy of the certificate or a lien record abstract for the certificate with the judgment. The recording shall act to extend the judgment lien of a judgment, and any support arrearage lien, in the county for the time provided in ORS 18.180 to 18.192.

(b) If a certificate of extension is filed under ORS 18.182, and the certificate is filed after the judgment is recorded under this section, a judgment creditor may record a certified copy of the certificate or a lien record abstract for the certificate in the County Clerk Lien Record in any county in which the judgment has been recorded under subsection (1) of this section. If the recording is made before the time that the judgment lien for the judgment would otherwise have expired under ORS 18.180 to 18.192, the recording extends the judgment lien of the judgment, without loss of priority, for the time provided in ORS 18.180 to 18.192. If the recording is made after the time that the judgment lien for the judgment would otherwise have expired under ORS 18.180 to 18.192, the recording extends the judgment lien of the judgment for the time provided in ORS 18.180 to 18.192, but the lien is subordinate to all other interests that are of record on the date the certificate or lien record abstract is recorded.

(5) When the judgment lien of a judgment expires in the county in which the judgment was originally entered, the judgment lien and any support arrearage lien created under this section expires in the other county or counties in which the judgment has been recorded.

(6) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §15; 2005 c.568 §20]

18.154 Appeal; motion to eliminate lien. A judgment debtor who appeals a judgment may move the trial court for elimination of the judgment lien created by the judgment. A court may grant a motion under this section if the judgment debtor files a supersedeas undertaking, as defined in ORS 19.005, and provides such additional security as may be required by the court to ensure that adequate amounts will be available to satisfy the judgment if affirmed on appeal. If the court grants the motion, the court administrator shall note in the register and in the judgment lien record that the judgment lien has been eliminated. [2003 c.576 §16; 2007 c.339 §4]

18.158 Judgment lien based on judgment for child support or spousal support entered in another state. (1) At any time after a judgment for unpaid child support or unpaid spousal support becomes effective in another state and before the expiration or

satisfaction of that judgment under the other state's law, a judgment creditor under the judgment may record a certified copy of the judgment or a lien record abstract for the judgment in the County Clerk Lien Record for any county in this state.

(2) If a judgment of another state described in subsection (1) of this section is extended or renewed under the laws of the state that rendered the judgment, a judgment creditor under the judgment may record a certified copy of the extension or renewal in the County Clerk Lien Record for any county in this state or may record a lien record abstract for extension or renewal in the County Clerk Lien Record for any county in this state.

(3) Upon recording a judgment, lien record abstract, extension or renewal under this section, the judgment creates a judgment lien as described in ORS 18.152 (3).

(4) When the judgment expires in the state in which the judgment was originally entered, the judgment lien and any support arrearage lien created under this section expire in every county in which the judgment has been recorded under this section.

(5) Liens arising by operation of law in another state against real property for amounts of overdue payments under a support order, as defined in ORS 110.303, shall be accorded full faith and credit if the state agency, party or other entity seeking to enforce the lien follows the applicable procedures for recording and service of notice of claim of lien as required by this section. A state agency, party or other entity may not file an action to enforce a lien described in this section until the underlying judgment has been filed in Oregon as provided in ORS chapter 110.

(6) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §17]

18.160 [Repealed by 1981 c.898 §53]

18.162 Judgment lien based on justice and municipal court judgments; satisfaction filing fee. (1) Subject to the requirements of this section and ORS 221.344, from the time that a judgment of a justice or municipal court is transcribed or recorded as provided in ORS 52.635 or 221.351, the judgment creates a judgment lien as described in ORS 18.152.

(2) The judgment lien of a judgment entered in a justice or municipal court may be eliminated as provided in ORS 18.154 if an appeal is taken from the judgment. The clerk of the justice or municipal court shall note the elimination of the lien in the judgment docket.

(3) When the lien of a justice or municipal court judgment ceases in the county in which the judgment was originally recorded or transcribed, the lien shall cease in every other county in which a certified copy of the judgment or a lien record abstract has been recorded. When the judgment has been fully satisfied, it is the responsibility of the judgment creditor to file a full satisfaction in any circuit court to which the judgment has been transcribed under ORS 52.635, and to record the satisfaction in the County Clerk Lien Record for the county in which the court is located if a certified copy of the judgment or a lien record abstract for the judgment was recorded in that County Clerk Lien Record. Upon satisfaction in full of the judgment, the judgment creditor shall deliver to the judgment debtor an executed satisfaction of the judgment for any other county where a certified copy of the judgment or a lien record abstract has been recorded. The county clerk shall charge a fee as provided in ORS 205.320 for filing a satisfaction of judgment. [Formerly 18.355]

18.165 Priority of judgment lien over unrecorded conveyance. (1) If a judgment with lien effect under ORS 18.150, 18.152 or 18.158 is entered or recorded in a county before a conveyance, or a memorandum of a conveyance, of real property of the debtor is recorded in that county, the conveyance of the judgment debtor's interest is void as against the lien of the judgment unless:

(a) The grantee under the conveyance is a purchaser in good faith for a valuable consideration, the conveyance is delivered and accepted before the judgment is entered or recorded in the county where the property is located and the conveyance or memorandum of the conveyance is recorded within 20 days after delivery and acceptance of the conveyance, excluding Saturdays and legal holidays under ORS 187.010 and 187.020;

(b) The judgment creditor has actual notice, record notice or inquiry notice of a conveyance of the debtor's interest to a grantee when the judgment is entered or recorded in the county;

(c) The conveyance by the debtor is a fulfillment deed entitled to priority over the judgment under ORS 93.645; or

(d) The conveyance is a mortgage, trust deed or other security instrument given by the debtor to secure financing for the purchase by the debtor of the real property described in the conveyance.

(2) For the purpose of subsection (1)(a) of this section, a memorandum of conveyance must contain the date of the instrument being memorialized, the names of the parties, a legal description of the real property involved and a description of the nature of the

interest created. The memorandum must be signed by the person from whom the interest is intended to pass, and be acknowledged or proved in the manner provided for the acknowledgment or proof of deeds.

(3) As used in this section:

(a) "Conveyance" means a deed, a land sale contract, an assignment of all or any portion of a seller's or purchaser's interest in a land sale contract or any other agreement affecting the title of real property within this state, including a trust deed, a mortgage, an assignment for security purposes or an assignment solely of proceeds, given by a purchaser or seller under a land sale contract or given by a person with title to the real property.

(b) "Grantee" means:

(A) The person deemed to be the mortgagee under a trust deed pursuant to ORS 86.715; and

(B) Any other person to whom the interest that is the subject of a conveyance is intended to pass. [Formerly 18.370; 2005 c.568 §21; 2007 c.166 §1]

18.170 Form for lien record abstract; rules. (1) Unless otherwise prescribed by law, a person recording a lien record abstract shall use substantially the following form:

LIEN RECORD ABSTRACT

The undersigned states:

A. Creditor/Prevailing Party Information:

— 1. The creditor/prevailing party is:

_____ and the address of the creditor is:

_____ under judgment, order or petition

entered on _____ (date) in

the _____ Court for

_____ (County) of _____ (State)

under Case No. _____.

— 2. The creditor's attorney's name is

_____ Attorney's Address is:

_____ Attorney's Phone No. is: _____

B. Debtor/Losing Party Information:

— 1. The debtor/losing party is:

_____ 2. Debtor's address (if known):

— 3. The Taxpayer Identification No. of the debtor, or the final four digits of the debtor's Social Security No. (if known):

— 4. The final four digits of the debtor’s driver license no. and state of issuance for the license (if known):

— 5. Name of debtor’s attorney (if known):

C. Judgment Information:

- 1. The amount of the judgment is:
— 2. The amount of the costs is:
— 3. The amount of attorney fees, if any is:

D. The Real or Personal Property to Be Affected

- (Check appropriate box):
— All real property of the debtor/losing party, now or hereafter acquired, in _____ County as provided under ORS 18.152
— The following described real or personal property of debtor (legal description as set forth or on attached Exhibit):

IN WITNESS WHEREOF, the undersigned person or persons have executed this abstract this ____ day of _____, 2_____.

_____)
_____) ss.
State of Oregon)
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2_____, by _____.

Notary Public for Oregon

My commission expires: _____

_____)
_____) ss.
State of Oregon)
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2_____, by _____ and by _____ of _____, a corporation on behalf of the corporation.

Notary Public for Oregon

My commission expires: _____

(2) A lien record abstract that is the result of a judgment for unpaid child or spousal support entered in another state shall be on the form prescribed by rules adopted by the Department of Justice in lieu of the form required by subsection (1) of this section. [Formerly 18.325; 2009 c.230 §2]

EXPIRATION AND EXTENSION OF JUDGMENT REMEDIES

18.180 Expiration of judgment remedies in circuit court. (1) Judgment remedies for a judgment expire upon full satisfaction of the money award portion of the judgment.

(2) If a judgment lien arises out of a support award under ORS 18.150 (3) or 18.152 (3), a support arrearage lien attaching to real property under the judgment lien expires upon satisfaction of the unpaid installment that gave rise to the support arrearage lien.

(3) Except as provided in ORS 18.180 to 18.192, judgment remedies for a judgment in a civil action expire 10 years after the entry of the judgment.

(4) Except as provided in this subsection, judgment remedies for a judgment in a criminal action expire 20 years after the entry of the judgment. Judgment remedies for a judgment in a criminal action that includes a money award for restitution expire 50 years after the entry of the judgment.

(5) Except as provided in ORS 18.192, judgment remedies for the child support award portion of a judgment, and any lump sum support award for child support, expire 35 years after the entry of the judgment that first establishes the support obligation.

(6)(a) Except as provided by paragraph (b) of this subsection and ORS 18.190, judgment remedies for any unpaid installment under the spousal support award portion of a judgment, including any installment arrearage lien arising under the judgment, expire 25 years after the entry of the judgment that first establishes the support obligation, or 10 years after an installment comes due under the judgment and is not paid, whichever is later.

(b) The judgment lien for the spousal support award portion of a judgment that is entered on or after January 1, 2004, including any installment arrearage lien arising under the judgment, expires 25 years after the entry of the judgment that first establishes the support obligation unless a certificate of extension is filed under ORS 18.185.

(7)(a) If a money award in a judgment under ORS 107.105 (1)(f) provides for a future payment of money, judgment remedies for the portion of the judgment providing for future payment expire 10 years after the date on which the future payment becomes due. At any time before the judgment remedies for a money award described in this subsection expire, judgment remedies for the portion of the judgment providing for a future payment may be extended as provided in ORS 18.182.

(b) This subsection does not apply to support awards.

(8) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §18; 2005 c.568 §22; 2005 c.618 §1; 2007 c.22 §1; 2009 c.354 §1]

Note: See note under 18.048.

Note: Section 2, chapter 354, Oregon Laws 2009, provides:

Sec. 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 18.180 by section 1 of this 2009 Act apply to all judgments, whether entered before, on or after the effective date of this 2009 Act [January 1, 2010].

(2) The amendments to ORS 18.180 by section 1 of this 2009 Act do not operate to revive any judgment remedies that expired before the effective date of this 2009 Act under the provisions of ORS 18.180 as in effect immediately before the effective date of this 2009 Act. [2009 c.354 §2]

18.182 Extension of judgment remedies. (1) Judgment remedies for a judgment may be extended by filing a certificate of extension in the court that entered the judgment. The court administrator shall enter the certificate in the register of the court and in the judgment lien record. Except as provided in ORS 18.180 to 18.192, a judgment creditor may file a certificate of extension only if:

(a) Judgment remedies for the judgment have not expired under ORS 18.180; and

(b) A full satisfaction document for the money award portion of the judgment has not been filed.

(2) Notwithstanding subsection (1) of this section, if the judgment debtor has been discharged from debt under federal bankruptcy laws, a certificate of extension may not be filed except as provided in this subsection. Judgments are presumed to have not been discharged in bankruptcy until the judgment debtor establishes that the judgment has been discharged. If the judgment debtor is discharged from a debt, a certificate of extension may be filed if:

(a) The debtor owned real property and the judgment lien attached to that property before the filing of the bankruptcy petition;

(b) The judgment lien was not avoided by action of the bankruptcy court;

(c) The judgment lien has not been discharged under ORS 18.238; and

(d) The certificate of extension includes a legal description of the real property and a statement that the extension affects only the lien on the real property described in the certificate.

(3) A certificate of extension must be signed by the judgment creditor, or by an attorney who represents the judgment creditor.

(4) Subject to ORS 18.190 and 18.192, if a certificate of extension is filed after the date on which the judgment remedies for the judgment expire under ORS 18.180, the certificate has no effect.

(5) The judgment remedies for a judgment that are extended under the provisions of this section expire 10 years after the certificate of extension is filed. Judgment remedies for a judgment may be extended only once under the provisions of this section.

(6) A certified copy of a certificate of extension, or a lien record abstract for the certificate, may be recorded in any county in which the judgment was recorded under ORS 18.152, with the effect provided by ORS 18.152 (4).

(7) Except as provided in ORS 18.185, 18.190 and 18.192, the judgment remedies for the support award portion of a judgment, and any lump sum money award for unpaid child support installments, may not be extended under this section.

(8) The judgment remedies for a judgment in a criminal action may not be extended under this section.

(9) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §19; 2007 c.339 §5]

18.185 Extension of judgment lien of spousal support award. (1) If a judgment that is entered on or after January 1, 2004, includes a spousal support award, a judgment creditor may file a certificate of extension under ORS 18.182 at any time more than 15 years after the entry of the judgment that first establishes the support obligation and before the judgment lien for the spousal support award portion of a judgment expires under ORS 18.180 (6)(b). If a certificate of extension is filed under this subsection:

(a) The judgment lien for the spousal support award portion of the judgment expires 10 years after the certificate of extension is filed; and

(b) Any installment arrearage lien that arises under the judgment, whether before or after the filing of the certificate, expires 10 years after the installment comes due and is

not paid or when the judgment lien for the spousal support award portion of the judgment expires under paragraph (a) of this subsection, whichever is first.

(2) Notwithstanding ORS 18.182 (5), certificates of extension under ORS 18.182 may continue to be filed in the manner provided by subsection (1) of this section and with like effect for as long as the judgment lien for the spousal support award portion of a judgment has not expired and any installments remain to be paid under the judgment. [2003 c.576 §20]

18.190 Spousal support awards in judgments entered before January 1, 2004.

(1) The judgment lien for the spousal support award portion of a judgment that is entered before January 1, 2004, including any installment arrearage liens that arise under the judgment, expires 10 years after the entry of the judgment that first establishes the support obligation unless a certificate of extension is filed under ORS 18.182, or the judgment was renewed in the manner provided by the statutes in effect immediately before January 1, 2004, within 10 years after the judgment was entered.

(2) ORS 18.180 (6) does not operate to revive the judgment lien of any judgment that expired before January 1, 2004, under the statutes in effect immediately before January 1, 2004.

(3) This section and ORS 18.180 (6) do not limit the time during which judgment remedies are available for any judgment entered before January 1, 2004, and those judgments may continue to be enforced for the time provided by the law in effect immediately before January 1, 2004, subject to any requirement for renewal of those judgments. [2003 c.576 §21]

18.192 Child support awards in judgments entered before January 1, 1994.

(1) The judgment lien of the child support award portion of a judgment entered before January 1, 1994, and any installment arrearage lien that arose under the judgment lien, expires 10 years after the entry of the judgment that established the support obligation unless the judgment was renewed in the manner provided by the statutes in effect immediately before January 1, 2004, within 10 years after the judgment was entered.

(2) ORS 18.180 (5) does not operate to revive the judgment lien of any judgment that expired before January 1, 2004.

(3) This section and ORS 18.180 (5) do not limit the time during which judgment remedies are available for any judgment entered before January 1, 1994, and those judgments may continue to be enforced for the time provided by the law in effect immediately before January 1, 2004, subject to any re-

quirement for renewal of those judgments. [2003 c.576 §22]

18.194 Expiration and extension of judgment remedies for justice and municipal court judgments.

(1) Judgment remedies for a judgment in justice and municipal courts expire upon full satisfaction of the money award portion of the judgment.

(2) Except as provided in this section, judgment remedies for a judgment in a civil action in a justice or municipal court expire 10 years after the entry of the judgment.

(3) Except as provided in this subsection, judgment remedies for a judgment in a criminal action in a justice or municipal court expire 20 years after the entry of the judgment. Judgment remedies for a judgment in a criminal action in a justice or municipal court that includes a money award for restitution expire 50 years after the entry of the judgment.

(4) Judgment remedies for a judgment in justice or municipal court may be extended by filing a certificate of extension in the court that entered the judgment. The clerk shall enter the certificate in the docket of the court. A judgment creditor may file a certificate of extension only if:

(a) Judgment remedies for the judgment have not expired; and

(b) A full satisfaction document for the money award portion of the judgment has not been filed.

(5) Notwithstanding subsection (4) of this section, if the judgment debtor has been discharged from debt under federal bankruptcy laws, a certificate of extension may not be filed except as provided in this subsection. Judgments are presumed to have not been discharged in bankruptcy until the judgment debtor establishes that the judgment has been discharged. If the judgment debtor is discharged from a debt, a certificate of extension may be filed if:

(a) The debtor owned real property and the judgment lien attached to that property before the filing of the bankruptcy petition;

(b) The judgment lien was not avoided by action of the bankruptcy court;

(c) The judgment lien has not been discharged under ORS 18.238; and

(d) The certificate of extension includes a legal description of the real property and a statement that the extension affects only the lien on the real property described in the certificate.

(6) If a certificate of extension is filed under this section after the date on which the judgment remedies for the judgment expire, the certificate has no effect.

(7) The judgment remedies for a judgment that are extended under the provisions of this section expire 10 years after the certificate of extension is filed. Judgment remedies for a judgment may be extended only once under the provisions of this section.

(8) A certified copy of a certificate of extension, or a lien record abstract for the certificate, may be recorded in any county in which the judgment was transcribed or recorded as provided in ORS 52.635 or 221.351, with the effect provided by ORS 18.152 (4).

(9) The judgment remedies for a judgment in a criminal action may not be extended under this section. [Formerly 18.365; 2005 c.618 §4]

Note: See note under 18.048.

RELEASE OF LIEN

18.200 Release of lien. (1) A judgment creditor may provide a release of lien document to a judgment debtor or to any other person with an interest in real property to which a judgment lien has attached. The release of lien document may be for all real property in a county or for a single piece of real property in a county. A release of lien document may be signed by the judgment creditor, or by any attorney who represents the creditor. The signature of the judgment creditor or attorney signing a release of lien document must be witnessed by a notary public.

(2) A release of lien document may be filed with the court administrator at any time after a judgment lien attaches under ORS 18.150. The court administrator shall note in the register and in the judgment lien record that the release of lien document has been filed, and also shall note whether the release is for all real property in a county or only for a single piece of real property in a county.

(3) A release of lien document may be recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152.

(4) Upon filing or recording under this section, a release of lien document operates to eliminate any judgment lien arising from the entry or recording of the judgment to the extent reflected in the document. The filing of a release of lien document does not constitute a full or partial satisfaction of the judgment.

(5) The court administrator may not charge a fee for filing a release of lien document.

(6) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §23; 2007 c.339 §6]

18.202 Reinstatement of lien. (1) If the administrator, as defined in ORS 25.010, eliminated a judgment lien document by filing a release of lien document with the court administrator under ORS 18.200, the administrator may reinstate the lien by recording a notice of reinstatement in the County Clerk Lien Record for the county where the judgment was entered.

(2) If the administrator, as defined in ORS 25.010, eliminated a judgment lien by recording a release of lien document in a County Clerk Lien Record under the provisions of ORS 18.200, the administrator may reinstate the lien by recording a notice of reinstatement in the County Clerk Lien Record for the county in which the release was recorded.

(3) The administrator may reinstate a lien under this section only if:

(a) The release was for all real property of a judgment debtor in a county; and

(b) The judgment lien that was eliminated arose out of the support award portion of the judgment.

(4) A certified copy of the judgment document, or a lien record abstract for the judgment, must be attached to the notice of reinstatement and be recorded with the notice. A notice of reinstatement may be recorded at any time after the release of lien document was filed or recorded and before the expiration of the judgment remedies for the judgment that gives rise to the judgment lien.

(5) Upon recording a notice of reinstatement under this section, the reinstated judgment lien has the same force and effect as a judgment lien created under ORS 18.152.

(6) A notice of reinstatement must be signed by the administrator as defined in ORS 25.010, or by an attorney who represents the administrator. The signature must be witnessed by a notary public. [2005 c.568 §9]

ASSIGNMENT OF JUDGMENT

18.205 Assignment of judgment. (1) A judgment creditor may assign all or part of the creditor's rights under a judgment. An assignment of judgment document must be signed by the judgment creditor, by the judgment creditor's agent or by an attorney who represents the judgment creditor. Signature by the judgment creditor's agent is not subject to the requirement of ORS 9.320 that a corporation appear by an attorney in all cases. The signature must be acknowledged by a notary public. The document may be:

(a) Filed with the court administrator for the court in which the judgment was entered, and upon such filing shall be entered

in the register and in the judgment lien record; or

(b) Recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152.

(2) Upon filing or recording under this section, an assignment of judgment document operates to assign the judgment creditor's rights under the judgment to the extent reflected in the document.

(3) If this or another state is assigned or subrogated to the support rights of a person under ORS 412.024, 418.032, 419B.406 or 419C.597 or similar statutes of another state, an assignment of judgment document bearing the signature of the Administrator of the Division of Child Support of the Department of Justice or the authorized representative of the administrator may be filed or recorded in the same manner as an assignment of judgment document under subsection (1) of this section and shall have the same effect as an assignment of judgment document signed by the judgment creditor.

(4) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §24; 2007 c.339 §7; 2011 c.226 §1]

18.210 [Repealed by 1979 c.284 §199]

18.220 [Repealed by 1979 c.284 §199]

SATISFACTION OF MONEY AWARDS

18.225 Satisfaction of money awards generally. (1) A satisfaction document may be for full or partial satisfaction of a money award. The title of the document must indicate whether the money award has been partially or fully satisfied. A satisfaction document must be signed by the judgment creditor or by an attorney who represents the judgment creditor. The signature of the judgment creditor or attorney signing a satisfaction document must be witnessed by a notary public.

(2) When the money award portion of a judgment has been fully satisfied, the judgment creditor must:

(a) File a satisfaction document for the full amount of the money award portion of the judgment in the county in which the judgment was entered; and

(b) Deliver to the judgment debtor a satisfaction document for the full amount of the money award portion of the judgment for every county in which the judgment has been recorded under ORS 18.152.

(3) Upon request by a judgment debtor or any person with an interest in real property subject to a judgment lien, a judgment creditor must provide to the judgment debtor

a satisfaction document for all amounts credited against a money award as of the date that the satisfaction document is signed.

(4) A satisfaction document may be filed with the court administrator at any time after entry of a judgment. The court administrator may not charge a fee for filing a satisfaction document. The court administrator shall note in the register and in the judgment lien record that the satisfaction document has been filed, and shall note if the document indicates that the money award has been fully satisfied.

(5) Upon payment of all required fees, the court administrator shall issue a certified copy of any satisfaction document filed with the court administrator and entered in the court register. The certified copy may be recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152.

(6) A satisfaction document for a support award that is paid to the Department of Justice may be filed with the court administrator only as provided in ORS 18.228.

(7) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §25; 2007 c.339 §8]

18.228 Satisfaction of support awards payable to Department of Justice. (1) If a support award is paid to the Department of Justice, the judgment creditor may receive credit for satisfaction of the judgment only in the manner provided by this section. The department may provide judgment creditors with forms and instructions for satisfaction of support awards under this section.

(2) Any satisfaction document for a support award described in subsection (1) of this section must be mailed to or delivered to the Department of Justice, and not to the court administrator. The department shall credit the amounts reflected in the satisfaction document to the support award pay records maintained by the department. Except as provided in subsection (3) of this section, the department shall not credit amounts against the support award pay records to the extent that the judgment is assigned or subrogated to this or another state. The Department of Justice shall thereafter promptly forward the satisfaction document to the court administrator for the court in which the money award was entered, together with a certificate from the department stating the amounts reflected as paid in the support award pay records maintained by the department. The court administrator shall note in the register as paid only the amount stated in the certificate, and not the amount shown on the satisfaction document.

(3) If a support award has been assigned to this state, the Department of Justice may satisfy the support award to the extent of the assignment. The department may credit the amounts reflected in the satisfaction document to the support award pay records maintained by the department and file the satisfaction document with the court administrator for the court in which the money award was entered, together with a certificate from the department stating the amounts reflected as paid in the support award pay records. The court administrator shall note in the register and in the judgment lien record the amount of satisfaction shown on the certificate, and not the amount shown on the satisfaction document.

(4) Unless a judgment requires that payments under a support award be paid to the Department of Justice or enforcement services are provided pursuant to ORS 25.080, all satisfaction documents for a support award must be filed with the court administrator. [2003 c.576 §26; 2007 c.339 §9]

18.230 [Amended by 1967 c.466 §1; 1975 c.134 §1; repealed by 1979 c.284 §199]

18.232 Alternate method for satisfaction of support awards payable to Department of Justice. (1) In addition to or in lieu of the certificate and satisfaction document provided for in ORS 18.228, the Department of Justice may execute and file a satisfaction document for a support award requiring payment to the department if:

(a) The judgment debtor provides a sworn affidavit indicating that the money award has been paid in full;

(b) The department certifies that the department has a complete pay record for the payments under the support award; and

(c) The department certifies that there are no arrearages.

(2) The Department of Justice shall be considered to have a complete pay record for the purposes of subsection (1) of this section if the department has kept the pay record for the support award from the date that the first payment was to be made under the support award, or if the judgment creditor or an entity providing enforcement services under ORS 25.080 establishes arrearages for the time period the pay record was not kept by the department.

(3) The signature of a person signing a satisfaction document filed under this section need not be acknowledged by a notary public.

(4) If a satisfaction document under this section is for any payment made to the Department of Justice for amounts that have not been assigned by the judgment creditor to the state, the department shall give notice to the judgment creditor in the manner pro-

vided by ORS 25.085. The notice must inform the judgment creditor that the department will execute and file the satisfaction of judgment unless the department receives a request for a hearing within 30 days after the date the notice was mailed. If a judgment creditor requests a hearing, the Department of Justice shall conduct the hearing as a contested case under ORS chapter 183 before a hearing officer appointed by the department. [2003 c.576 §27]

18.235 Motion to satisfy money award.

(1) A judgment debtor, or a person with an interest in real property against which a judgment lien exists, may move the court for an order declaring that a money award has been satisfied or for a determination of the amount necessary to satisfy the money award, when the person making the motion cannot otherwise obtain a satisfaction document from a judgment creditor.

(2) Motions under this section shall be filed in the action in which the judgment was entered. All proceedings on the motion shall be conducted as part of the action in which the judgment was entered. An appearance fee may not be charged for filing a motion under this section.

(3) A motion under this section must include the following information, to the extent known to the person making the motion:

(a) The date of entry and principal amount of the money award.

(b) The rate of interest and the date the interest commenced to accrue.

(c) The date or dates and amounts of any payments on the money award.

(d) Any amount that the person believes remains to be paid on the money award, including any supporting mathematical calculations.

(e) Any other information necessary or helpful to the court in making its determination.

(4) A person making a motion under this section must serve the motion on the judgment creditor. If the person making the motion is not the judgment debtor, the person also must serve the motion and supporting affidavit on the judgment debtor. If an assignment of judgment document has been filed with the court under ORS 18.205, the motion must be served on the person named as the assignee of the judgment. Service on the judgment creditor and judgment debtor under this subsection may be made as provided in ORCP 9 if the motion is filed within one year after entry of the judgment. If the motion is filed more than one year after entry of the judgment, or service is to be made on an assignee of the judgment, the motion may either be personally served as

provided in ORCP 7, or be served by certified mail, return receipt requested with signed receipt. The court may waive service on any person under this subsection if the person making the motion files an affidavit with the court stating that the person cannot be found after diligent effort by the person making the motion. The person making the motion shall file proof of service with the court.

(5) A person served with a motion under this section must file a response within 21 days after service is made, or within such time as may be allowed by the court. The response must specifically identify those assertions in the motion that the person contests. The response must contain any information or mathematical calculations necessary to support the contentions of the responding party.

(6) The court shall hear the motion not less than seven days after notice of hearing is given to the person making the motion and to the parties served with the motion. The court shall hear and determine the issues in a summary fashion without a jury. The court shall give the parties a reasonable opportunity to present evidence relevant to any factual issues.

(7) If the court determines that the person making the motion is entitled to relief, the court shall issue an order providing that the money award has been satisfied in full or, if the money award has not been satisfied in full, the specific amount that will satisfy the judgment on a specific date or within a period of time specified in the order.

(8) If the court finds that the judgment creditor willfully failed to provide a satisfaction document under ORS 18.225, the court may render a supplemental judgment awarding reasonable attorney fees to the person making the motion. The supplemental judgment may provide that the person making the motion may satisfy the judgment by paying such amounts the court determines to be necessary to satisfy the judgment less that sum of money the court awards as attorney fees.

(9) If the court finds that the money award has been satisfied, or if the amount specified by the court is paid to the court administrator within the time specified by the court, the court administrator shall note in the register and in the judgment lien record that the money award has been satisfied in full. The court administrator shall deliver any money paid to the court administrator to the party or parties specified in the court's order.

(10) Upon request of the person making the motion, the court administrator shall issue a certificate indicating that the money award has been satisfied. The certificate may

be recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152. Recording of the certificate eliminates any judgment lien that was created by the recording of the judgment.

(11) At least five days before filing a motion under this section, the person must serve by personal delivery or first class mail a copy of the motion on the Administrator of the Division of Child Support of the Department of Justice, or on the branch office of the Department of Justice providing support services to the county in which the motion will be made, if:

(a) The motion relates to satisfaction of a support award; and

(b) Child support rights, as defined in ORS 25.010, for the judgment creditor have been assigned to the state.

(12) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §28; 2007 c.166 §3; 2007 c.339 §10]

18.238 Proceedings after discharge in bankruptcy.

(1) Any person discharged from debts pursuant to the federal bankruptcy laws may file in any court or tribunal in which a judgment has at any time been rendered against the person, either before or after such discharge, a motion in the suit, action or proceeding for the discharge of the judgment from the record. After notice to the judgment creditor, or to any assignee of the judgment creditor whose assignment has been filed or recorded under ORS 18.205, the court shall enter a final order that the judgment be discharged and satisfied of record if the debtor establishes that:

(a) The debtor has been discharged from the payment of the judgment or the claim upon which the judgment was based; and

(b) Either there was no property to which a judgment lien had attached under ORS 18.150, 18.152, 52.635 or 221.351, as of the date the petition for relief is filed under the federal bankruptcy laws, or if there was such property, the value of the property on the date of the filing of the petition was not more than the outstanding balance of any prior lien or liens upon the property.

(2) If the debtor fails to meet the burden of proof established by subsection (1) of this section, the court shall enter a final order denying the debtor's motion.

(3) For the purposes of this section, when notice was given in connection with bankruptcy proceedings to a creditor retaining a beneficial interest in an assigned judgment or claim, such notice shall provide the basis for the satisfaction of that portion of the judgment in which the creditor retains a beneficial interest. When the bankrupt re-

ceived notice prior to the adjudication of bankruptcy of the assignment of a judgment or claim, notice to the assignor retaining a beneficial interest may not provide the basis for satisfaction for that portion of the judgment which represents the amount actually paid by the assignee of the judgment for the claim and actual court costs incurred by the assignee in prosecuting the claim. [Formerly 18.420]

18.240 [Repealed by 1979 c.284 §199]

CONTRIBUTION

18.242 Contribution among judgment debtors; subrogation of surety. When property liable to an execution against several persons is sold thereon, and more than a due proportion of the judgment is levied upon the property of one of them, or one of them pays, without a sale, more than that person's proportion, that person may compel contribution from the others; and when a judgment is against several, and is upon an obligation or contract of one of them as security for another, and the surety pays the amount, or any part thereof, either by sale of property or before sale, the surety may compel repayment from the principal. In such cases, the person so paying or contributing shall be entitled to the benefit of the judgment to enforce contribution or repayment, if within 30 days after payment the person files with the clerk of the court where the judgment was rendered, notice of payment and claim to contribution or repayment; upon filing such notice, the clerk shall make an entry thereof in the margin of the docket where the judgment is entered. In any county where the judgment was recorded the person may have the notice of payment and claim to contribution or repayment recorded in the County Clerk Lien Record. [Formerly 18.430]

Note: 18.242 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 18 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

APPEAL

18.245 Jurisdictional requirements. The following requirements are the only requirements of this chapter that are jurisdictional for the purposes of appeal of a judgment:

(1) The judgment document for the judgment must be plainly titled as a judgment as required by ORS 18.038 (1).

(2) The judgment document for the judgment must comply with the requirements of ORS 18.038 (4).

(3) The court administrator for the circuit court rendering the judgment must note

in the register of the court that the judgment document has been filed, as required by ORS 18.058 (1). [2005 c.568 §2]

Note: See first note under 18.005.

18.250 [Repealed by 1979 c.284 §199]

ENFORCEMENT OF JUDGMENTS (Generally)

18.252 Execution. (1) Except as provided in this section, and subject to the terms of the judgment, a judgment may be enforced by execution upon entry of the judgment. The ability to enforce a judgment by execution expires as provided in ORS 18.180 to 18.192.

(2) Any portion of a money award that by the terms of the judgment is to be paid on some date after the date that the judgment is entered may be enforced by execution when payment becomes due under the terms of the money award and is not paid.

(3) Except as provided in ORS 18.255 or by other law, a judgment may be enforced only by the court in which the judgment is entered or, if the judgment is a foreign judgment, the court in which the judgment is first filed under ORS 24.115 or 110.405.

(4) Nothing in ORS 18.252 to 18.993 affects the ability of a judgment creditor to enforce a judgment by means other than execution. [2003 c.576 §29]

18.255 Enforcement of judgment by circuit court for county where debtor resides. (1) The circuit court for the county where a judgment debtor resides may enforce a circuit court judgment entered in another circuit court if a transcript of the original judgment is filed with the court. The circuit court for the county where a judgment debtor resides may issue a writ of execution against real property under the provisions of this section only if a certified copy of the original judgment, or a lien record abstract in the form provided by ORS 18.170, is recorded in the County Clerk Lien Record for that county, in addition to the filing of a transcript of the original judgment with the circuit court for that county. In no event shall the court administrator be liable for issuing a writ of execution, writ of garnishment or other execution for a judgment transcribed pursuant to this section.

(2) A judgment creditor who files a transcript of a judgment under subsection (1) of this section must give written notice of the filing to the circuit court in which the judgment was originally entered.

(3) At the time a transcript of a judgment is filed under this section, the judgment creditor or the attorney for the judgment creditor must make and file with the court

administrator a statement containing the information required for a money award under ORS 18.042 (2) and an affidavit setting forth:

(a) The name and last-known address of the judgment creditor;

(b) The name and last-known address of the judgment debtor;

(c) A statement that the judgment creditor has a good faith belief that the judgment debtor resides in the county in which the transcript of the judgment is filed;

(d) A statement that the judgment has not been satisfied and that execution on the judgment has not been stayed; and

(e) A statement that written notice of the filing has been given to the circuit court in which the judgment was originally entered.

(4) The circuit court in which a transcript of a judgment is filed under this section is the only court with authority to issue a writ of execution, writ of garnishment or other execution on the transcribed judgment until the judgment creditor files an affidavit with the circuit court certifying that the judgment debtor no longer resides in that county. A copy of the affidavit must be filed by the judgment creditor in the court in which the judgment was originally entered. After the filing of an affidavit under this subsection, only the circuit court in which the judgment was originally entered may issue a writ of execution, writ of garnishment or other execution on the judgment.

(5) When a transcribed judgment is filed with a circuit court under this section, the court administrator shall enter the transcribed judgment in the register but shall not note in the register that the judgment creates a judgment lien. The files and records of the court in which the judgment was originally entered remain the official record of the proceeding, and files and records maintained by a court in which a transcribed judgment has been filed are auxiliary to the files and records of the court in which the judgment was originally entered. Satisfaction documents under ORS 18.225 and certificates of extension under ORS 18.180 to 18.192 may be filed only in the court in which the judgment was originally entered.

(6) This section does not apply to justice courts, municipal courts or county courts performing judicial functions. [2003 c.576 §30]

18.260 [Amended by 1971 c.224 §1; repealed by 1979 c.284 §199]

(Proceedings in Support of Execution)

18.265 Debtor examination. (1) At any time after a judgment is entered, a judgment creditor may upon motion obtain an order requiring the judgment debtor to appear be-

fore the court or a referee appointed by the court at the time and place specified in the order, and requiring the judgment debtor to answer under oath questions concerning any property or interest in property that the judgment debtor may have or claim. The motion must be supported by one of the following:

(a) Proof of service of a notice of demand to pay the judgment within 10 days. The notice of demand must be served in the same manner as a summons or by any form of mail addressed to the judgment debtor and requesting a receipt. Service by mail under this paragraph is effective on the date of mailing.

(b) A return of a writ of execution showing that the judgment has not been satisfied.

(c) A garnishee response to a writ of garnishment that does not fully satisfy the judgment.

(2) Only the following courts may issue an order under this section:

(a) The court in which the original judgment was entered.

(b) Any circuit court for the county in which the judgment debtor resides and in which the judgment has been recorded under ORS 18.152.

(c) Any circuit court for the county in which the principal place of employment of the judgment debtor is located and in which the judgment has been recorded under ORS 18.152.

(3) If a motion under this section is filed in the court specified by subsection (2)(b) or (c) of this section, a certified copy of the judgment or a certified copy of the recording made in the County Clerk Lien Record of the county must be filed with the motion unless a transcript of the judgment has been filed with the court under ORS 18.255.

(4) Except as provided in this section, a judgment debtor may not be required to attend in a county other than the county in which the judgment debtor resides or may be found at the time of service of the order requiring the appearance, unless the place where the judgment debtor is to appear is not more than 100 miles from the residence of the judgment debtor.

(5) If the judgment debtor resides more than 100 miles from the place of examination, the judgment debtor shall be required to appear and shall be paid mileage at the time of the hearing as provided for witnesses in ORS 44.415.

(6) Upon motion and good cause shown, the court may order that proceedings under this section be conducted at a time or place other than the time or place specified in the original order.

(7) The court may at any time enter an order restraining the judgment debtor from selling, transferring or in any manner disposing of any property of the judgment debtor that is subject to execution pending an examination under this section. [2003 c.576 §31]

18.268 Conduct of debtor examination; seizure of property. (1) A judgment debtor may be examined on oath concerning the judgment debtor's property in a debtor's examination. Upon request by the judgment creditor, the proceedings shall be reduced to writing and filed with the court administrator. The judgment creditor and judgment debtor may subpoena and examine witnesses.

(2) If it appears that the judgment debtor has any property that may be applied against the judgment, the court may order that the property be seized for application against the judgment. [2003 c.576 §32]

18.270 Written interrogatories. (1) At any time after a judgment is entered, a judgment creditor may serve written interrogatories relating to the judgment debtor's property and financial affairs on a judgment debtor. The interrogatories may be personally served in the manner provided for summons or may be served by any form of mail addressed to the judgment debtor and requesting a receipt. Service by mail under this subsection is effective on the date of mailing. The interrogatories shall notify the judgment debtor that the judgment debtor's failure to answer the interrogatories truthfully shall subject the judgment debtor to the penalties for false swearing as provided in ORS 162.075 and for contempt of court as provided in ORS 33.015 to 33.155.

(2) Within 20 days after receipt of the interrogatories, the judgment debtor must answer all questions under oath and return the original interrogatories to the judgment creditor.

(3) Failure of the judgment debtor to comply with the provisions of this section is contempt of court, and the judgment creditor may commence proceedings under the provisions of ORS 33.015 to 33.155. [2003 c.576 §33; 2005 c.22 §7]

EXEMPT PROPERTY (Generally)

18.300 Resident entitled to use federal exemptions or state exemptions in bankruptcy. (1) For purposes of a bankruptcy petition, a resident of this state may use the federal exemptions provided in section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)) or the exemptions given to residents of this state under state law, but may not use both.

(2)(a) If a resident of this state uses any of the federal exemptions provided in section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)) for purposes of a bankruptcy petition, the resident may not use any of the exemptions given to residents of this state under state law.

(b) If a resident of this state uses any of the exemptions given to residents of this state under state law for purposes of a bankruptcy petition, the resident may not use any of the federal exemptions provided in section 522(d) of the Bankruptcy Code of 1978 (11 U.S.C. 522(d)).

(3) This section does not apply to executions. [Formerly 23.305; 2013 c.597 §4]

18.305 Property not exempt from execution for purchase price. No article of property, or if the same has been sold or exchanged, then neither the proceeds of such sale nor the articles received in exchange therefor, shall be exempt from execution issued on a judgment recovered for its price. [Formerly 23.220]

18.310 [Amended by 1967 c.471 §1; repealed by 1979 c.284 §199]

18.312 Execution not to issue against property of deceased party; exception. (1) Except as provided in subsection (2) of this section, execution may not be issued against the property of a deceased party. Except as provided in subsection (2) of this section, a judgment against a deceased party may be collected only by making a claim against the estate of the deceased party in the manner prescribed by ORS chapter 115 or ORS 114.505 to 114.560.

(2) This section does not prevent the issuance of execution and sale of property pursuant to a judgment of foreclosure and sale of property of the decedent. If the amount realized from the sale of property is not sufficient to satisfy the judgment and collection of the deficiency is otherwise allowed by law, the amount of the deficiency may be collected by making a claim against the estate in the manner prescribed by ORS chapter 115 or ORS 114.505 to 114.560. [Formerly 23.105; 2007 c.495 §1]

18.315 [1999 c.788 §15; repealed by 2003 c.576 §580]

18.318 Execution against property in possession or control of public officer or agency. Any salary, wages, credits, or other personal property in the possession or under the control of the state or of any county, city, school district or other political subdivision therein, or any board, institution, commission, or officer of the same, belonging or owed to any person, firm or corporation, shall be subject to execution in the same manner and with the same effect as property in the possession of individuals is subject to execution; however, process in such pro-

ceedings may be served only on the board, department, institution, commission, agency, or officer charged with the duty of approving a voucher or claim for such salary, wages, credits, or other property. No clerk or officer of any court shall be required to answer as garnishee as to any moneys or property in the possession of the clerk or officer in the custody of the law. [Formerly 23.190]

18.320 [Amended by 1961 c.151 §1; 1983 c.405 §1; 1983 c.696 §3; 1985 c.343 §1; 1987 c.586 §3; 1989 c.768 §5; 1993 c.223 §2; 1997 c.801 §59; 1999 c.80 §31; 1999 c.788 §18; repealed by 2003 c.576 §580]

18.322 Adjudication of claim of exemption. The judgment debtor's claim of exemption shall, upon application of either plaintiff or judgment debtor, be adjudicated in a summary manner at a hearing in the court out of which the execution issues. [Formerly 23.168; 2005 c.542 §56]

18.325 [1987 c.586 §2b; 1989 c.171 §2; 1999 c.59 §6; 1999 c.80 §32; 1999 c.195 §5; 2003 c.73 §13; 2003 c.576 §570; renumbered 18.170 in 2003]

18.330 [Repealed by 1959 c.558 §29 (18.335 enacted in lieu of 18.330)]

18.335 [1959 c.558 §30 (enacted in lieu of 18.330); 1979 c.284 §54; 1983 c.405 §2; 1987 c.873 §21; 1997 c.340 §5; 1997 c.872 §16; 2001 c.249 §67; repealed by 2003 c.576 §580]

18.340 [Repealed by 1959 c.558 §51]

(Personal Property)

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

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

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

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

(d) A vehicle to the value of \$3,000. As used in this paragraph "vehicle" includes an automobile, truck, trailer, truck and trailer or other motor vehicle.

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

(f) Household goods, furniture, radios, a television set and utensils all to the total value of \$3,000, if the judgment debtor holds

the property primarily for the personal, family or household use of the judgment debtor; provisions actually provided for family use and necessary for the support of a householder and family for 60 days and also 60 days' supply of fuel.

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

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

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

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

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

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

(m) Veterans' benefits and loans.

(n) The debtor's right to receive an earned income tax credit under the federal tax laws and any moneys that are traceable to a payment of an earned income tax credit under the federal tax laws.

(o) The debtor's right to the assets held in, or right to receive payments under, a medical savings account or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

(p) The debtor's interest, not to exceed \$400 in value, in any personal property. However, this exemption may not be used to increase the amount of any other exemption.

(2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of which the execution issued to be of a value in excess of that allowed by the appropriate paragraph of subsection (1) of this section, the officer seizing the property shall proceed to sell such property. Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of subsection (1) of this section and shall apply the balance of the proceeds

of sale on the execution. A sale may not be made under such execution unless the highest bid made exceeds the appropriate exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the judgment creditor.

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

(4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or other execution is issued to collect past due support as defined in ORS 18.600, 50 percent of unemployment compensation benefits, workers' compensation benefits and other benefits paid to the debtor by the United States, by the state or by a political subdivision of the state are exempt. The exemption related to unemployment compensation benefits provided by this subsection is subject to ORS 657.855. The exemption provided by this subsection applies without regard to whether the payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made under a settlement or judgment on account of personal bodily injury and the garnishment or other execution is issued to collect past due support as defined in ORS 18.600, the lesser of 50 percent of the payment or \$7,500 is exempt. [Formerly 23.160; 2005 c.456 §1; 2009 c.612 §1; 2011 c.93 §1; 2011 c.317 §4; 2013 c.597 §1]

18.348 Certain funds exempt when deposited in account; limitation. (1) Funds that are exempt from execution under ORS 18.358, 18.385, 238.445, 344.580, 348.863, 407.595, 411.760, 414.095, 655.530, 656.234, 657.855 and 748.207 remain exempt when deposited in an account in a financial institution as long as the exempt funds are reasonably identifiable.

(2) Subsection (1) of this section does not apply to any accumulation of funds greater than \$7,500.

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

(4) The application of subsections (1) and (3) of this section is not affected by the commingling of exempt and nonexempt funds

in an account. For the purpose of identifying exempt funds in an account, first in, first out accounting principles shall be used.

(5) The provisions of this section do not affect the duties of a garnishee with respect to amounts in accounts that are not subject to garnishment under ORS 18.784. [Formerly 23.166; 2005 c.381 §19; 2009 c.430 §4; 2009 c.718 §37]

18.350 [Amended by 1961 c.151 §2; 1983 c.405 §3; 1983 c.696 §3a; 1985 c.343 §2; 1987 c.586 §4; 1993 c.523 §1; 1997 c.71 §13; 1997 c.801 §66; 1999 c.195 §1; 1999 c.788 §21a; repealed by 2003 c.576 §580]

18.352 Proceeds of casualty and indemnity insurance attachable on execution. Whenever a judgment debtor has a policy of insurance covering liability, or indemnity for any injury or damage to person or property, which injury or damage constituted the cause of action in which the judgment was rendered, the amount covered by the policy of insurance shall be subject to attachment upon the execution issued upon the judgment. [Formerly 23.230]

18.355 [1999 c.788 §16; 2003 c.576 §93; renumbered 18.162 in 2003]

18.358 Certain retirement plans exempt from execution; exceptions. (1) As used in this section:

(a) "Beneficiary" means a person for whom retirement plan benefits are provided or their spouse.

(b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 1998.

(c) "Permitted contribution" means:

(A) A contribution that, at the time of the contribution, is not taxable income to the beneficiary and, if the sponsor is a taxable entity, is tax deductible to the sponsor;

(B) A nondeductible contribution by a beneficiary to a retirement plan to the extent that the contribution is permitted to be made under the Internal Revenue Code;

(C) A deductible or nondeductible contribution to an individual retirement account to the extent the contribution is not subject to federal excise tax as an excess contribution;

(D) A contribution, pursuant to a rollover or transfer, from one retirement plan to another, to the extent the federal tax deferred status is preserved at such time;

(E) A rollover from an individual retirement account described in section 408 of the Internal Revenue Code to an individual retirement account described in section 408A of the Internal Revenue Code; and

(F) Any earnings under a retirement plan which are attributable to a contribution described in subparagraphs (A) to (E) of this paragraph.

(d) “Retirement plan” means:

(A) A pension plan and trust, including a profit sharing plan, that is described in sections 401(a), 401(c), 401(k), 403 and 457 of the Internal Revenue Code, including that portion attributable to contributions made by or attributable to a beneficiary;

(B) An individual retirement account or annuity, including one that is pursuant to a simplified employee pension, as described in section 408 or 408A of the Internal Revenue Code; and

(C) Any pension not described in subparagraphs (A) and (B) of this paragraph granted to any person in recognition or by reason of a period of employment by or service for the Government of the United States or any state or political subdivision of any state, or any municipality, person, partnership, association or corporation.

(e) “Sponsor” means an individual or entity which establishes a retirement plan.

(2) Subject to the limitations set forth in subsection (3) of this section, a retirement plan shall be conclusively presumed to be a valid spendthrift trust under these statutes and the common law of this state, whether or not the retirement plan is self-settled, and a beneficiary’s interest in a retirement plan shall be exempt, effective without necessity of claim thereof, from execution and all other process, mesne or final.

(3) Notwithstanding subsection (2) of this section:

(a) A contribution to a retirement plan, other than a permitted contribution, shall be subject to ORS 95.200 to 95.310 concerning fraudulent transfers; and

(b) Unless otherwise ordered by a court under ORS 25.387, 75 percent of a beneficiary’s interest in a retirement plan, or 50 percent of a lump sum retirement plan disbursement or withdrawal, shall be exempt from execution or other process arising out of a support obligation or an order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C. [Formerly 23.170; 2011 c.317 §5]

18.360 [Amended by 1983 c.405 §4; 1983 c.696 §32a; 1985 c.343 §3; 1987 c.586 §5; 1993 c.716 §1; 1993 c.763 §6; 1995 c.79 §5; 1997 c.801 §103; 1999 c.788 §22; repealed by 2003 c.576 §580]

18.362 Exemption for firearms. Every citizen of this state above the age of 16 years shall be entitled to have, hold and keep, for the own use and defense of the citizen and shall have exempt from execution one rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt under this section may not exceed \$1,000. [Formerly 23.200]

18.364 Prohibition on demanding firearms. No officer, civil or military, or other person, shall take from or demand of the owner any firearms mentioned in ORS 18.362, except where the services of the owner are also required to keep the peace or defend the state. [Formerly 23.210]

18.365 [1999 c.788 §17; 2003 c.576 §94; renumbered 18.194 in 2003]

18.370 [Amended by 1987 c.586 §6; 2003 c.576 §45a; renumbered 18.165 in 2003]

(Wages)

18.375 Definitions. As used in this section and ORS 18.385:

(1) “Disposable earnings” means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required to be withheld by law.

(2) “Earnings” means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(3) “Employer” means any entity or individual who engages a person to perform work or services for which compensation is given in periodic payments or otherwise, even though the relationship of the person so engaged to the employer may be as an independent contractor for other purposes.

(4) “Garnishment” means any legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt. “Garnishment” does not include the procedure authorized by ORS 25.372 to 25.427, 419B.408 or 419C.600 or ORS chapter 110. [Formerly 23.175]

18.380 [Repealed by 1985 c.343 §14]

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

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

(a) \$218 for any period of one week or less;

(b) \$435 for any two-week period;

(c) \$468 for any half-month period;

(d) \$936 for any one-month period; and

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

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

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

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

- (a) Any order of a court of bankruptcy.
- (b) Any debt due for federal tax.

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

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

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

(9) An employer may not discharge any individual because the individual has had earnings garnished. [Formerly 23.186; 2007 c.496 §§9,14; 2011 c.228 §1]

18.390 [Amended by 1961 c.151 §3; 1983 c.696 §4; repealed by 1985 c.343 §14]

(Homesteads)

18.395 Homestead exemption. (1) A homestead shall be exempt from sale on execution, from the lien of every judgment and from liability in any form for the debts of the owner to the amount in value of \$40,000, except as otherwise provided by law. The exemption shall be effective without the necessity of a claim thereof by the judgment debtor. When two or more members of a household are debtors whose interests in the homestead are subject to sale on execution, the lien of a judgment or liability in any form, their combined exemptions under this section shall not exceed \$50,000. The homestead must be the actual abode of and occupied by the owner, or the owner's spouse, parent or child, but the exemption shall not be impaired by:

- (a) Temporary removal or temporary absence with the intention to reoccupy the same as a homestead;
- (b) Removal or absence from the property; or
- (c) The sale of the property.

(2) The exemption shall extend to the proceeds derived from such sale to an amount not exceeding \$40,000 or \$50,000, whichever amount is applicable under subsection (1) of this section, if the proceeds are held for a period not exceeding one year and held with the intention to procure another homestead therewith.

(3) The exemption period under subsection (1)(b) and (c) of this section shall be one year from the removal, absence or sale, whichever occurs first.

(4) When the owner of a homestead has been granted a discharge in bankruptcy or has conveyed the homestead property, the value thereof, for the purpose of determining a leviable interest in excess of the homestead exemption, shall be the value on the date of the petition in bankruptcy, whether the value is determined in the bankruptcy proceedings or not, or on the date the conveyance becomes effective, whichever shall first occur. However, with respect to judgments not discharged in the bankruptcy, or entered against the owner after discharge, the value on the effective date of conveyance shall be controlling.

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

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

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

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

(8) Upon the issuance of an order authorizing sale as required by ORS 18.904, and in conformance with subsection (5) of this section, the sheriff may proceed to sell the

property. If the homestead exemption applies, the sheriff shall pay the homestead owner out of the proceeds the sum of \$40,000 or \$50,000, whichever is applicable, and apply the balance of the proceeds on the execution. However, no sale shall be made where the homestead exemption applies unless the sum bid for the homestead is in excess of the sum of the costs of sale and \$40,000 or \$50,000, whichever is applicable. If no such bid is received, the expense of the sale shall be borne by the petitioner.

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

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

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

(b) A manufactured dwelling, as defined by ORS 446.003. [Formerly 23.240; 2005 c.456 §2; 2005 c.542 §57; 2009 c.612 §2]

18.398 Denial of homestead exemption when judgment is for child support. (1) It is the policy of this state:

(a) To afford protection to the debtor and the debtor's family homestead through the homestead exemption;

(b) To maintain dependent children from the financial resources of both parents of those children;

(c) That the homestead exemption should not be permitted to serve as a shield for a debtor's evasion of child support obligations;

(d) That the burden for that support should not be shifted in all cases to the present family of the debtor through the sale of the family residence; and

(e) That to accommodate these policies, the court should have the discretion to decline to allow all or part of a claimed homestead exemption in cases involving child support as provided in this section.

(2) Notwithstanding ORS 18.395 to 18.422, a court in its discretion may decline to allow a homestead exemption in whole or part in any proceeding under ORS 18.912 if the proceeding is based on a judgment for child support that arises out of an order or judgment under ORS 24.115, 107.095, 107.105, 107.135, 108.120, 109.100, 109.103, 109.155, 109.165, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110 or 125.

(3) In exercising the discretion granted under subsection (1) of this section, the court shall consider:

(a) The financial resources of both parties;

(b) The number of dependents of each of the parties;

(c) The ages, health and conditions of parties and their dependents;

(d) The child support payment history of the judgment debtor on the judgment which is the subject of the petition; and

(e) Other collection attempts by the judgment creditor on the judgment which is the subject of the petition.

(4) This section shall not apply to any proceeding under ORS 18.912 brought by or on the behalf of the state or any agency of the state. [Formerly 23.242; 2005 c.542 §58]

18.400 [Amended by 1965 c.619 §7; 1979 c.694 §1; 1983 c.696 §5; 1985 c.343 §4; 1985 c.496 §18; 1985 c.610 §2; 1987 c.586 §7; 1993 c.33 §275; 1995 c.608 §20; 1997 c.123 §1; 1997 c.704 §12; 1999 c.788 §23; 2001 c.900 §235; 2003 c.73 §14; repealed by 2003 c.576 §580]

18.402 Limitations on homestead exemption. The homestead mentioned in ORS 18.395 shall consist, when not located in any town or city laid off into blocks and lots, of any quantity of land not exceeding 160 acres, and when located in any such town or city, of any quantity of land not exceeding one block. However, a homestead under this section shall not exceed in value the sum of \$40,000 or \$50,000, whichever amount is applicable under ORS 18.395 (1). [Formerly 23.250; 2005 c.456 §3; 2009 c.612 §3]

18.405 [1979 c.694 §3; 2001 c.334 §1; repealed by 2003 c.576 §580]

18.406 Exemption not applicable to certain liens, mortgages and interests. ORS 18.395 to 18.422 do not apply to construction liens for work, labor or material done or furnished exclusively for the improvement of the homestead property, to purchase money liens, to mortgages lawfully executed, or to the enforcement of a seller's rights under a land sale contract, as defined by ORS 18.960. [Formerly 23.260; 2005 c.542 §58a]

18.410 [Amended by 1985 c.540 §26; 1987 c.586 §8; 1989 c.768 §6; 1999 c.788 §24; repealed by 2003 c.576 §580]

18.412 Notice of intent to discharge judgment lien against homestead. (1) At any time after the date of execution of an agreement to transfer the ownership of property in which a homestead exemption exists pursuant to ORS 18.395, the homestead owner or the owner's transferee may give notice of intent to discharge the property from the judgment lien to a judgment creditor. Each notice shall bear the caption of the action in which the judgment was recovered and shall:

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

(b) State the fair market value of the property on the date of the notice or of any applicable petition in bankruptcy, whichever is applicable, and list the encumbrances against the property, including the nature and date of each encumbrance, the name of the encumbrancer and the amount presently secured by each encumbrance;

(c) State that the property is claimed by the person giving the notice to be wholly exempt from the lien of the judgment or, if the value of the property exceeds the sum of the encumbrances specified as required under paragraph (b) of this subsection that are senior to the judgment lien and \$40,000 or \$50,000, whichever amount of the homestead exemption is applicable under ORS 18.395 (1), that the amount of the excess or the amount due on the judgment, whichever is less, will be deposited with the court administrator for the court in which the judgment was entered for the use of the judgment holder; and

(d) Advise the holder of the judgment that the property may be discharged from any lien arising from the judgment, without further notice to the judgment creditor, unless prior to a specified date, which in no case may be earlier than 14 days after the date of mailing of the notice, the judgment creditor files objections and a request for a hearing on the matter as provided in ORS 18.415.

(2) Each notice described by subsection (1) of this section shall be sent by certified mail to the judgment creditor, as shown by the court records, at the judgment creditor's present or last-known address according to the best knowledge of the person sending the notice. A copy of each notice, together with proof of mailing, may be filed with the court administrator for the court in which the judgment was entered and shall be filed by the court administrator with the records and files of the action in which the judgment was recovered. [Formerly 23.280; 2005 c.456 §4; 2007 c.129 §9; 2009 c.612 §4]

18.415 Objections to discharge; hearing. (1) Any holder of an interest in a judgment described in a notice sent pursuant to ORS 18.412 may file objections to the notice and a request for a hearing upon the application for an order made pursuant to ORS 18.422 (4). The objections and the request for a hearing must be filed in the court that entered the judgment. The objections and the request for hearing must be filed prior to the date specified in the notice and must indicate the grounds for the objections and include the address to which notice of any hearing upon request for an order may be sent.

(2)(a) If the holder of a judgment admits the validity of the homestead exemption and

objects only that the value placed upon the property in the notice is or was less than the fair market value of the property on the date of the notice or petition in bankruptcy, whichever is applicable, the court shall try the issue of fair market value without formal pleadings. Each party may offer evidence of fair market value, but the holder of the judgment has the burden of proving the fair market value.

(b) If the objection is made to other than the valuation of the property, the court shall try the issues of fact and law in the manner of a quiet title suit and may direct filing of formal pleadings as it considers necessary for definition of issues.

(3) If the court finds that the fair market value of the property specified in the notice reasonably approximates the fair market value of the property on the date of the notice or petition in bankruptcy, whichever is applicable, or, if other issues are raised by the objections and are decided against the holder of the judgment, the court shall make an order that the property is not subject to the lien of the objecting judgment holder. In all other cases, the application for an order shall be dismissed and the lien upon the property shall not be affected by the notice. [Formerly 23.290; 2005 c.568 §23]

18.420 [Amended by 1961 c.538 §1; 1987 c.586 §9; 1991 c.696 §1; 1999 c.788 §25; 2003 c.576 §571; renumbered 18.238 in 2003]

18.422 Release of judgment lien. (1) If a deposit, as required by ORS 18.412 (1)(c), is made by a transferee of any property, the transferee may credit the amount of the deposit against the consideration owed by the transferee for the transfer.

(2) The holder of any judgment described in ORS 18.412 (1) is entitled to receive the full amount of any deposit made with respect to the judgment upon delivery to the court administrator of a release of lien document in the form provided by ORS 18.200 for the property described in the notice. If the real property is located in a county where a certified copy of the judgment or lien record abstract has been recorded, the holder of the judgment, upon receipt of the deposit, shall have a certified copy of the release of lien document recorded in the County Clerk Lien Record.

(3) If a release of lien document for the property is not delivered by the holder of the judgment to the court administrator as required by subsection (2) of this section, the court administrator shall hold the deposit described in ORS 18.412 (1) and the deposit shall be paid by the court administrator to the homestead claimant upon expiration of the judgment remedies for the judgment as provided in ORS 18.180 to 18.192.

(4) At any time after the date specified in a notice, as provided by ORS 18.412 (1)(d), the homestead claimant for the property described in the judgment may apply to the court in which the judgment was entered for an order that the property described in the notice is no longer subject to the judgment lien. If no objections are filed and no hearing is requested in accordance with ORS 18.415, the judge shall issue an ex parte order that the property is no longer subject to the judgment lien if the judge is satisfied that the property has been, or is about to be, transferred and that the notice was prepared and mailed and a deposit was made as required in ORS 18.412. The judge must, in addition, find that the holder of the judgment actually received notice or, if the whereabouts of the holder are unknown, that a reasonably diligent effort has been made to find the holder. If objections and a request for a hearing have been filed by the holder of the judgment, the court shall set a hearing and notify the holder of the judgment of the time and place of the hearing. The homestead claimant may have a certified copy of the ex parte order recorded in the County Clerk Lien Record. [Formerly 23.300]

18.425 [1987 c.774 §29; 1997 c.801 §123; 1999 c.788 §26; repealed by 2001 c.779 §10]

18.428 [Formerly 23.164; 2005 c.542 §59a; 2005 c.568 §24; repealed by 2009 c.612 §9]

18.430 [Amended by 1987 c.586 §10; renumbered 18.242 in 2003]

18.440 [1971 c.665 §1; 1975 c.269 §1; renumbered 31.800 in 2003]

18.445 [1975 c.269 §2; renumbered 31.805 in 2003]

18.450 [1975 c.269 §3; 1995 c.696 §1; renumbered 31.810 in 2003]

18.455 [1975 c.269 §4; 1995 c.696 §2; renumbered 31.815 in 2003]

18.460 [1975 c.269 §5; renumbered 31.820 in 2003]

18.465 [2003 c.576 §34; repealed by 2005 c.542 §73]

18.468 [2003 c.576 §35; 2005 c.568 §24a; repealed by 2005 c.542 §§73,73a]

18.470 [1971 c.668 §1; 1975 c.599 §1; 1995 c.696 §3; renumbered 31.600 in 2003]

18.472 [2003 c.576 §36; 2005 c.542 §60; renumbered 18.867 in 2005]

18.475 [1975 c.599 §4; renumbered 31.620 in 2003]

18.476 [2003 c.576 §37; repealed by 2005 c.542 §73]

18.478 [Formerly 23.410; repealed by 2005 c.542 §73 and 2005 c.568 §42]

18.480 [1975 c.599 §2; 1995 c.79 §6; 1995 c.696 §4; renumbered 31.605 in 2003]

18.482 [Formerly 23.310; repealed by 2005 c.542 §73]

18.485 [1975 c.599 §3; 1987 c.774 §7; 1995 c.696 §5; renumbered 31.610 in 2003]

18.486 [Formerly 23.440; repealed by 2005 c.542 §73]

18.490 [1975 c.599 §5; renumbered 31.615 in 2003]

18.492 [2003 c.576 §38; repealed by 2005 c.542 §73]

18.494 [2003 c.576 §39; repealed by 2005 c.542 §73]

18.500 [Formerly 41.950; renumbered 31.550 in 2003]

18.505 [2003 c.576 §40; 2005 c.542 §61; 2005 c.568 §25; renumbered 18.892 in 2005]

18.508 [2003 c.576 §41; renumbered 18.894 in 2005]

18.510 [1971 c.331 §6; 1975 c.784 §14; 1981 c.892 §85c; 1981 c.898 §17; renumbered 31.555 in 2003]

18.512 [2003 c.576 §42; 2005 c.456 §5; 2005 c.542 §61b; 2005 c.568 §25a; renumbered 18.896 in 2005]

18.515 [2003 c.576 §43; renumbered 18.898 in 2005]

18.518 [2003 c.576 §44; renumbered 18.899 in 2005]

18.520 [Formerly 41.960; renumbered 31.560 in 2003]

18.530 [Formerly 41.970; renumbered 31.565 in 2003]

18.532 [Formerly 23.450; repealed by 2005 c.542 §73]

18.535 [1995 c.688 §3; 2003 c.552 §1; renumbered 31.725 in 2003]

18.536 [Formerly 23.445; repealed by 2005 c.542 §73]

18.537 [1995 c.688 §2; renumbered 31.730 in 2003]

18.538 [Formerly 23.460; repealed by 2005 c.542 §73]

18.540 [1987 c.774 §3; 1991 c.862 §1; 1995 c.688 §1; 1997 c.73 §1; renumbered 31.735 in 2003]

18.542 [Formerly 23.470; repealed by 2005 c.542 §73]

18.545 [Formerly 23.480; repealed by 2005 c.542 §73]

18.548 [Formerly 23.490; repealed by 2005 c.542 §73]

18.550 [1987 c.774 §4; 1989 c.721 §45; 1989 c.782 §34; 1995 c.280 §28; 1999 c.537 §1; renumbered 31.740 in 2003]

18.552 [Formerly 23.515; repealed by 2005 c.542 §73]

18.555 [Formerly 23.500; repealed by 2005 c.542 §73]

18.560 [1987 c.774 §6; renumbered 31.710 in 2003]

18.562 [Formerly 23.510; repealed by 2005 c.542 §73]

18.565 [Formerly 23.520; repealed by 2005 c.542 §73]

18.568 [Formerly 23.530; repealed by 2005 c.542 §73]

18.570 [1987 c.774 §7a; 1995 c.696 §6; renumbered 31.705 in 2003]

18.572 [Formerly 23.540; repealed by 2005 c.542 §73]

18.578 [Formerly 23.550; repealed by 2005 c.542 §73]

18.580 [1987 c.774 §9; 2003 c.576 §232; renumbered 31.580 in 2003]

18.582 [Formerly 23.560; repealed by 2005 c.542 §73]

18.585 [Formerly 23.570; repealed by 2005 c.542 §73]

18.588 [Formerly 23.580; repealed by 2005 c.542 §73]

18.590 [1989 c.1074 §1; renumbered 31.760 in 2003]

18.592 [1999 c.1065 §1; renumbered 31.715 in 2003]

18.594 [Formerly 23.590; repealed by 2005 c.542 §73]

18.598 [Formerly 23.600; repealed by 2005 c.542 §73]

WRITS OF GARNISHMENT

(Definitions)

18.600 Definitions. As used in ORS 18.600 to 18.850:

(1) "Account" means an account at a financial institution, including a master account or subaccount, to which an electronic payment may be directly routed.

(2) "Check" has the meaning given that term in ORS 73.0104.

(3) "Creditor" means a person to whom a debt is owed by a debtor.

(4) "Debt" means any monetary obligation for which a garnishment may be issued under ORS 18.605.

(5) “Debtor” means a person whose property is being garnished for the purpose of paying a debt owed to a creditor.

(6) “Federal benefit payment” means:

(a) A benefit payment from the United States Social Security Administration that is protected under 42 U.S.C. 407 and 1383(d)(1);

(b) A benefit payment from the United States Department of Veterans Affairs that is protected under 38 U.S.C. 5301(a);

(c) A benefit payment from the Railroad Retirement Board that is protected under 45 U.S.C. 231m(a) and 352(e); or

(d) A benefit payment from the United States Office of Personnel Management that is protected under 5 U.S.C. 8346 and 8470.

(7) “Financial institution” means a financial institution or trust company as those terms are defined in ORS 706.008.

(8) “Garnishable property” means all property described in ORS 18.615, but does not include:

(a) Any property that is not subject to garnishment under ORS 18.618; and

(b) Any property that is applied as a setoff under ORS 18.620 or 18.795.

(9) “Garnishee” means a person to whom a writ of garnishment has been delivered.

(10) “Garnishment account review” means the process of examining deposits to an account to determine whether benefit payments described in ORS 18.784 (3) have been deposited in the account during the lookback period.

(11) “Garnishor” means:

(a) The creditor, if the writ is issued by the court administrator on behalf of the creditor under ORS 18.635 (2); or

(b) The issuer, if the writ is issued under ORS 18.635 by any person other than the court administrator.

(12) “Past due support” means the amount of child or spousal support, or both, determined under a court or administrative order in a proceeding under ORS chapter 107, 108, 109, 110, 416, 419B or 419C that has not been paid or is certified to be owed by another state under ORS 25.083.

(13) “Wages” includes all amounts paid for the services of an employee by an employer, including amounts paid as a commission or bonus.

(14) “Writ” means a writ of garnishment. [2001 c.249 §1; 2003 c.85 §2; 2003 c.576 §47; 2005 c.542 §62; 2011 c.733 §1]

(Garnishment Generally)

18.602 Garnishment described. For the purposes of ORS 18.600 to 18.850, garnishment is the procedure by which a creditor invokes the authority of a circuit court, justice court or municipal court to acquire garnishable property of a debtor that is in the possession, control or custody of a person other than the debtor. [2001 c.249 §2]

18.605 Debts subject to garnishment; when writ may be issued on debt. (1) Garnishment may be used to acquire garnishable property for application against the following debts:

(a) A judgment requiring the payment of money that has been entered in the register of a circuit court or docketed in the docket of a justice, county or municipal court.

(b) If the writ of garnishment is issued pursuant to provisional process under ORCP 83 and 84, a claim of one party against another party in a civil action.

(c) Support arrearage shown on the support records of the Department of Justice pursuant to ORS 25.020 and 25.167, even though such records may not constitute a full record of the support arrearage owed.

(d) Monetary obligations imposed under agency orders or warrants recorded pursuant to law in the County Clerk Lien Record.

(2) For the purposes of ORS 18.600 to 18.850:

(a) A writ may be issued for a monetary obligation based on a judgment other than a judgment for support after the judgment is entered in the register of a circuit court or after the judgment is docketed in the docket of a justice, county or municipal court.

(b) A writ may be issued for a monetary obligation based on a judgment for support after the underlying judgment, court order or administrative order that creates the support obligation is entered in the register of the court or after a request for administrative enforcement services is received under ORS 25.083.

(c) A writ may be issued pursuant to provisional process under ORCP 83 and 84 after the court order for provisional process is entered in the docket or register of the court.

(d) A writ may be issued for a monetary obligation based on an agency order or warrant after the order or warrant is recorded in the County Clerk Lien Record. [2001 c.249 §3; 2003 c.576 §176]

18.607 Form of writ; single writ for two or more debtors. (1) Except as otherwise provided by law, a writ of garnishment must be in substantially the form provided by ORS 18.830. Notation on the writ of addi-

tional information for purposes of identifying the debtor or the garnishable property believed to be held by the garnishee does not affect the validity or operation of the writ. A debt calculation form, in substantially the form provided by ORS 18.832, must be prepared for each writ of garnishment issued.

(2) A writ of garnishment must contain all of the following information:

(a) The name of the court whose authority is invoked.

(b) The names of the creditor and debtor.

(c) The name of the garnishor.

(d) The date on which judgment was entered against the debtor or the debt otherwise became subject to garnishment under ORS 18.605.

(e) The debtor's employer identification number, or the final four digits of the debtor's Social Security number, if those numbers are known by the garnishor.

(f) The amount subject to garnishment under the writ, as determined by completing the debt calculation form provided in ORS 18.832.

(g) The date on which the writ is issued.

(h) All addresses required in the writ of garnishment form provided by ORS 18.830.

(3) If a writ of garnishment is issued by the court administrator, the creditor must sign the certification in the writ indicating that the creditor has read the writ and that to the best of the knowledge, information and belief of the creditor there is good ground to support issuance of the writ and the amount indicated in the writ as subject to garnishment.

(4) If a writ is issued by any person other than the court administrator, the person issuing the writ must sign the certification described in subsection (3) of this section.

(5) A single writ may be issued for two or more debtors if those debtors are jointly liable on all or part of the debt. [2001 c.249 §4; 2003 c.85 §3; 2003 c.576 §48; 2009 c.230 §3]

18.609 Validity of writ after issuance.

(1) A writ of garnishment is valid only if the writ is delivered not more than 60 days after the writ is issued. If the writ is delivered within the time specified in this section, the writ acts to garnish property for the period of time specified by ORS 18.625.

(2) If the court administrator is issuing a writ of garnishment, the date of issuance for the writ is the date the court administrator stamps and signs the writ. If the writ is issued by any other person, the date of issuance for the writ is the date on which the issuer signs the certification described in ORS 18.607 (4). [2001 c.249 §5; 2003 c.576 §49]

18.610 Court with authority over writ.

(1) Only the following courts have authority over a writ of garnishment issued for the enforcement of a judgment:

(a) The court in which the judgment to be enforced was originally entered or first registered;

(b) The circuit court for the county in which a judgment debtor resides if the requirements of ORS 18.255 have been met; and

(c) The circuit court for the county in which a debtor has filed a challenge to the garnishment under ORS 18.718.

(2) Only the following courts have authority over a writ of garnishment issued for the enforcement of an agency order or warrant:

(a) The circuit court for the county in which the order or warrant was first recorded; and

(b) The circuit court for the county in which the debtor resides if the order or warrant has also been recorded in that county.

(3) The circuit court for the county in which the order for provisional process is entered has sole authority for issuance of a writ of garnishment issued pursuant to an order for provisional process. [2001 c.249 §6; 2003 c.576 §572]

(Garnishable Property)

18.615 Garnishable property generally.

Except as specifically provided in ORS 18.600 to 18.850, a writ of garnishment delivered to a garnishee garnishes all personal property of the debtor, including but not limited to property in safe deposit boxes, stocks, wages, monetary obligations owing to the debtor that are then in existence whether due or to become due, property held on expired and unexpired bailments and leases, and property held by the garnishee pursuant to a security interest granted by the debtor to the garnishee. A writ of garnishment acts to garnish all property of the debtor possessed by the garnishee, all property of the debtor over which the garnishee has control and all property of the debtor that is in the custody of the garnishee. If a person other than the debtor has an interest in the garnished property, the writ of garnishment acts only to garnish the interest of the debtor in the property. [2001 c.249 §7]

18.618 Property not subject to garnishment. (1)(a) Notwithstanding ORS 18.615, the following are not garnishable property:

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

(B) Property in the custody of the law.

(C) Property in the possession of a conservator.

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

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

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

(G) Amounts in an account in a financial institution that are not subject to garnishment under ORS 18.784.

(H) An identification document, such as a driver license, passport, certified copy of a record of live birth or Social Security card.

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

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

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

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

(C) Before the writ is delivered to the garnishee, the garnishee issued instructions to the financial institution or the payroll administrator to pay the debtor for the pay period.

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

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

1330). [2001 c.249 §8; 2005 c.348 §98a; 2005 c.391 §1; 2005 c.542 §63; 2007 c.496 §1; 2009 c.430 §3; 2011 c.195 §1; 2013 c.366 §48]

18.619 [2009 c.430 §2; 2011 c.733 §2; renumbered 18.784 in 2011]

18.620 Setoff for certain amounts payable to underlying lienholders. (1) Notwithstanding ORS 18.615, a garnishee may apply a setoff against amounts owing to the debtor under the terms of a land sale contract, under the terms of a promissory note or other evidence of indebtedness that is secured by a mortgage or trust deed, or under the terms of a security agreement as defined in ORS 79.0102, to the extent that those amounts are actually paid to another person:

(a) Who is entitled to receive the amounts under the terms of the land sale contract, mortgage, trust deed or security agreement, or under the terms of any other land sale contract, mortgage, trust deed or security agreement that is secured by the same property that is the subject of the land sale contract, mortgage, trust deed or security agreement; and

(b) Who has an interest in the property that is the subject of the land sale contract, mortgage, trust deed or security agreement that is superior to the interest of the creditor under the laws that would govern a foreclosure, trust deed sale, repossession or other action against the property that is the subject of the land sale contract, mortgage, trust deed or security agreement.

(2) A garnishee must deliver in the manner required by ORS 18.600 to 18.850 all amounts in the garnishee's possession, control or custody at the time of delivery of the writ of garnishment that are not actually paid by the garnishee to another person as described in subsection (1) of this section, unless those amounts are exempt from execution under other law.

(3) A garnishee who applies a setoff under this section must disclose that the setoff has been applied, and the amount of the setoff, in the garnishee response required by ORS 18.680. The garnishee must certify in the garnishee response that the amounts specified in the certificate were actually paid by the garnishee to another person entitled to receive those amounts under subsection (1) of this section. [2001 c.249 §9; 2001 c.445 §159a]

(Duration of Writ's Effect)

18.625 Duration of writ's effect. (1) For any property other than wages, a writ of garnishment acts to garnish only garnishable property of the debtor that is in the garnishee's possession, control or custody at the time the writ is delivered, including money that is owed but not yet due.

(2) Except as provided in ORS 18.618 (2), a writ of garnishment acts to garnish all wages owed by the garnishee to the debtor at the time the writ is delivered. Except as provided in subsection (3) of this section, a writ also acts to garnish all wages earned by the debtor by reason of services to the garnishee during the period commencing with the date the writ is delivered and ending on the earlier of:

(a) The expiration of 90 days after the date the writ is delivered; or

(b) The date on which the garnishment is released or satisfied in full.

(3) If a writ of garnishment is issued on behalf of a county or county agency, the writ acts to garnish all wages earned by the debtor by reason of services to the garnishee until the full amount owed to the county or county agency is paid or until the writ of garnishment is released by the county or county agency or by a court order. A writ of garnishment issued on behalf of a county or county agency shall contain language reasonably designed to notify the garnishee of the provisions of this subsection. [2001 c.249 §10; 2007 c.496 §2]

18.627 Multiple writs. (1) Except as otherwise provided by law, the first writ of garnishment delivered to a garnishee has priority over all other writs delivered to the garnishee for the same debtor. A garnishee shall make payments or deliver property under a subsequently delivered writ only if there is garnishable property of the debtor remaining in the garnishee's possession, control or custody after complying with the first writ delivered to the garnishee.

(2) If a debtor earns wages from a garnishee during the period that a writ of garnishment is in effect under ORS 18.625, the garnishee shall make payments under the first writ delivered to the garnishee until the expiration of the period of time specified in ORS 18.625, and shall thereafter make payments on subsequently delivered writs in the order in which they were delivered to the garnishee as long as each writ continues to be effective under ORS 18.625. Any delay in payment under a writ by reason of this subsection does not affect the expiration of the writ's effect at the time specified in ORS 18.625. If the first writ does not garnish all wages of the debtor that are not exempt from execution, the garnishee shall make concurrent payment on a subsequently delivered writ of the balance of the wages that are not exempt from execution.

(3) If a garnishee pays wages to a debtor and the garnishee receives another writ of garnishment during the period that a writ is in effect under ORS 18.625, the garnishee shall note those facts on the garnishee re-

sponse and indicate the date on which the previous writ will expire.

(4) A subsequent writ of garnishment issued on behalf of the same creditor against the same debtor and delivered to the same garnishee during the period that a previous writ is effective under ORS 18.625 acts only to garnish property of the debtor other than wages. [2001 c.249 §11]

(Persons Authorized to Issue Writs)

18.635 Who may issue writs. (1) A writ of garnishment may be issued only by a person specified in this section.

(2) The court administrator may issue a writ pursuant to ORS 18.638 and 18.640 only:

(a) For the enforcement of a judgment that requires the payment of money and that has been entered in the register of a circuit court or docketed in the docket of a justice or municipal court;

(b) Pursuant to an order for provisional process under ORCP 83 and 84; or

(c) On behalf of a complainant or claimant under an order recorded pursuant to ORS 671.707 or 701.153, if the complainant or claimant has complied with the requirements of ORS 205.126.

(3) An attorney who is an active member of the Oregon State Bar may issue a writ for the purpose of enforcing:

(a) A judgment that requires payment of money and that has been entered in the register of a circuit court of this state or docketed in the docket of a justice or municipal court of this state; and

(b) An order or warrant that an agency has recorded in the County Clerk Lien Record as authorized by law, including any order that has been recorded pursuant to ORS 671.707 or 701.153.

(4) The administrator, as defined in ORS 25.010, may issue writs of garnishment only for the collection of past due support. Writs issued under this subsection are subject to the provisions of ORS 18.645. [2001 c.249 §12; 2003 c.576 §50; 2007 c.793 §1; 2007 c.836 §39]

(Writs Issued by Court Administrators)

18.638 Writs issued by court administrators generally. (1) Unless there are grounds for denying issuance of a writ of garnishment under ORS 18.640, the court administrator shall issue writs of garnishment upon proper application and payment of all required fees. A writ of garnishment issued by the court administrator must be signed by the creditor. The signature constitutes a certificate by the person under ORCP 17 and is subject to the sanctions provided by ORCP 17.

(2) The court administrator may not fill in or complete a writ of garnishment on behalf of a creditor.

(3) The court administrator is not responsible for verifying the amounts set forth in a writ issued by the court administrator and is not liable for errors in the writ made by the creditor. [2001 c.249 §13; 2003 c.576 §51]

18.640 Grounds for denying issuance of writ. (1) The court administrator shall refuse to issue a writ of garnishment that is not substantially in the form required by ORS 18.830.

(2) The court administrator shall refuse to issue a writ of garnishment that is incomplete or contains improper instructions. Grounds for refusing issuance of a writ under this subsection include:

(a) The inability of the court administrator to verify the existence of the debt claimed as the basis for the writ by a review of the register of the court.

(b) A determination by the court administrator, based on a review of the register of the court, that a satisfaction of judgment has been filed with the court.

(3) The court administrator shall refuse to issue a writ of garnishment pursuant to an order for provisional process under ORCP 83 and 84 if the party seeking issuance of the writ has not complied with all requirements of ORCP 82 A(3), A(5) and A(6) and B to G, 83 and 84. [2001 c.249 §14; 2003 c.576 §52]

(Writs Issued by Division of Child Support or District Attorney)

18.645 Writs issued by Division of Child Support or district attorney; rules.

(1) The administrator, as defined in ORS 25.010, may issue writs of garnishment for the collection of past due support in the manner provided by this section. Except as otherwise specifically provided in ORS 18.600 to 18.850, the provisions of ORS 18.600 to 18.850 apply to all writs issued under this section.

(2) Notwithstanding ORS 18.607, a writ of garnishment issued under this section need not contain the name of the court whose authority is invoked.

(3) A single writ of garnishment may be issued under this section for two or more judgments for past due support owed by the same judgment debtor. A separate debt calculation form for each of the judgments must be prepared as provided by ORS 18.832. The writ must reflect the captions of all cases for which the writ is issued. The writ also must reflect, as the amount subject to garnishment under the writ, the sum of the amounts due

under all of the judgments subject to the writ. Notwithstanding ORS 18.700 (2), the debtor may file a challenge to a writ issued under this subsection with the court administrator for any court in which one of the judgments subject to the writ was entered. Upon receipt of a notice of a challenge to a garnishment under this subsection, the issuer of the writ shall file with the court administrator a response to the challenge, attaching copies of the writ and garnishee response, copies of all judgments for which the writ is issued and the debt calculation forms for those judgments, and any supporting documentation necessary or helpful to the court in making a determination on the challenge. The Department of Justice shall adopt rules governing the distribution to judgment creditors of amounts received by the administrator under a writ issued under this subsection.

(4) Notwithstanding ORS 18.690, a garnishee who receives a writ of garnishment issued under this section need not deliver a copy of the garnishee response to the court administrator.

(5) Notwithstanding ORS 18.730, payments under a writ issued under this section must be delivered to the Department of Justice.

(6) Notwithstanding ORS 18.730, the Department of Justice must hold any payments received from the garnishee under a writ issued pursuant to this section:

(a) For a period of 120 days after delivery of the writ, if the garnishee is making a payment of wages.

(b) For a period of 30 days after delivery of the writ, if the garnishee is making a payment other than wages.

(7) When issuing writs under this section, the Administrator of the Division of Child Support of the Department of Justice shall modify the forms provided in ORS 18.600 to 18.850 to reflect the provisions of this section. [2001 c.249 §15; 2003 c.85 §4; 2003 c.373 §1; 2003 c.576 §53a]

(Delivery of Writ)

18.650 Items required to be delivered to garnishee. (1) All of the following items must be delivered to a garnishee:

(a) The original writ of garnishment in substantially the form provided by ORS 18.830 or a copy of the writ.

(b) A garnishee response form in substantially the form provided by ORS 18.835.

(c) An instructions to garnishee form in substantially the form provided by ORS 18.838.

(d) A wage exemption calculation form in substantially the form provided by ORS 18.840.

(e) Any search fee required by ORS 18.790.

(2) If any of the items described in subsection (1) of this section is not delivered to the garnishee, the garnishment is not effective to garnish any property of the debtor, the garnishee is not required to respond to the garnishment and the garnishee may proceed to deal with any property of the debtor as though the writ of garnishment had not been issued. [2001 c.249 §16; 2003 c.85 §5]

18.652 Manner of delivery; delivery fee. (1) A writ of garnishment may be delivered to the garnishee personally or by certified mail, return receipt requested. Delivery is effective upon receipt of the writ by the garnishee. If the garnishee refuses to accept delivery by certified mail, the garnishor may attempt personal delivery, but the garnishor must have a new writ issued in order to claim additional delivery fees.

(2) Personal delivery of a writ of garnishment may be made only by:

(a) The sheriff of the county where the writ is to be delivered; or

(b) A competent person 18 years of age or older who is a resident of the State of Oregon and who is not a party or attorney in the action.

(3) If personal delivery is made under this section, the person serving the writ must note the date of delivery upon the original writ delivered to the garnishee or upon the copy of the writ delivered to the garnishee.

(4) Notwithstanding subsection (2) of this section, a person other than a sheriff may not deliver a writ of garnishment unless the person has errors and omissions insurance with limits of not less than \$100,000 per occurrence from a company authorized to do business in this state.

(5) The delivery fee for a writ of garnishment by a person other than a sheriff shall be in an amount agreed to between the person making the delivery and the garnishor. The delivery fee for a writ by a sheriff under this section is \$25. [2001 c.249 §17; 2003 c.85 §6; 2003 c.304 §5; 2009 c.835 §3]

18.655 Proper person to receive writ.

(1) Except as otherwise provided in this section, a writ of garnishment may be delivered to any of the following persons:

(a) If the property of the debtor is in the possession, control or custody of an individual, the writ may be delivered to the individual. If the individual is the sole proprietor of a business, the writ may also be delivered to any person designated by the individual to

accept service of a writ of garnishment. If the individual maintains an office for the conduct of business, office delivery may be made under subsection (6) of this section.

(b) If the property of the debtor is in the possession, control or custody of a partnership other than a limited partnership, the writ may be delivered to any partner or to any person designated by the partnership to accept service of a writ of garnishment. If the partnership is a limited partnership, the writ of garnishment may be delivered only to a general partner or to a person designated by the partnership to accept service. If the partnership maintains an office for the conduct of business, office delivery may be made under subsection (6) of this section.

(c) If the property of the debtor is in the possession, control or custody of a corporation, the writ may be delivered to any officer or managing agent of the corporation or to any person designated by the corporation to accept service.

(d) If the property of the debtor is in the possession, control or custody of a limited liability company, the writ may be delivered to any member of the company or to any person designated by the company to accept service.

(e) If the property of the debtor is in the possession, control or custody of a financial institution, the writ may be delivered to the manager, assistant manager or other designated person at any office or branch of the financial institution where deposits are received or that has been designated by the institution as a place for receiving writs of garnishment. Delivery of a writ in the manner prescribed in this paragraph is effective to garnish all property of the debtor held at all offices and branches of the financial institution located in this state.

(f) If the property of the debtor is in the possession, control or custody of a public body, as defined in ORS 174.109, the writ may be delivered to the board, department, institution, commission or officer charged with approving a claim for the property, or to such person or place as may be designated by the public body.

(2) Notwithstanding ORS 78.1120 (2), if the property of the debtor is money that is owed to the debtor that is not evidenced by a negotiable instrument, certificate, document or similar instrument, the writ of garnishment must be delivered to the person who owes the money in the manner provided by subsection (1) of this section.

(3) Notwithstanding ORS 78.1120 (2), if the property of the debtor is stock in a corporation, other than stock represented by a negotiable certificate or similar instrument,

the writ of garnishment must be delivered to the corporation in the manner provided by subsection (1) of this section.

(4) Notwithstanding ORS 77.6020 and 78.1120, if the property of the debtor is a negotiable instrument, certificate, document or similar instrument, the writ of garnishment must be delivered to the person having possession of the instrument in the manner provided by subsection (1) of this section. The garnishment does not limit the rights of a holder in due course of a negotiable instrument under ORS 73.0302, a holder to whom a negotiable document has been duly negotiated under ORS 77.5010 or a protected purchaser of a security under ORS 78.3030.

(5) If the property of the debtor is an interest of an heir or legatee in an estate of a decedent, the writ of garnishment must be delivered to the personal representative of the estate in the manner provided by subsection (1) of this section.

(6) For the purposes of subsection (1)(a) and (b) of this section, office delivery may be made by leaving all of the items required by ORS 18.650 (1) at the office during normal working hours with the person who is apparently in charge. If office delivery is used, the person delivering the writ, as soon as reasonably possible, shall cause to be mailed by first class mail all of the items required by ORS 18.650 (1) to the garnishee at the garnishee's place of business or such other place under the circumstances that is most reasonably calculated to apprise the garnishee of the garnishment, together with a statement of the date, time and place at which office delivery was made. Office delivery under this subsection is effective upon the receipt of the writ by the person who is apparently in charge of the office. [2001 c.249 §18; 2003 c.85 §7; 2005 c.269 §1]

18.658 Documents to be delivered to debtor. (1) Following delivery of a writ of garnishment to a garnishee, the person who delivered the writ must mail or deliver promptly the following documents to the debtor whose property is being garnished by the writ:

- (a) A copy of the writ of garnishment.
- (b) The original of the debt calculation form.
- (c) A notice of exemptions form in substantially the form provided by ORS 18.845.
- (d) A challenge to garnishment form in substantially the form provided by ORS 18.850, with the names and addresses of the garnishor and garnishee entered by the garnishor.

(2) A person serving a writ of garnishment may meet the requirements of subsection (1) of this section by mailing the

documents to the address of the debtor that appears in the writ of garnishment. If an address for the debtor does not appear in the writ, the person serving the writ need not comply with subsection (1) of this section. [2001 c.249 §19; 2003 c.85 §8]

(Duties of Garnishee Generally)

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

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

(3) If a single writ is issued for two or more joint debtors under ORS 18.607 (5) and the garnishable property in the garnishee's possession, control or custody exceeds the amount necessary to satisfy the garnishment, the garnishee must hold and deliver as much of the property as is necessary to satisfy the garnishment but may select, in the sole discretion of the garnishee, the property to hold and deliver without regard to which of the joint debtors owns the property. [2001 c.249 §20; 2003 c.85 §9; 2009 c.430 §6]

18.668 Immunity by payment to court administrator or delivery to sheriff. (1) Notwithstanding any provision of ORS 18.600 to 18.850, a garnishee may pay to the garnishor or to the court administrator any money that the garnishee reasonably believes may have been garnished and may deliver to the sheriff in the manner provided by ORS 18.600 to 18.850 any property that the garnishee reasonably believes to have been garnished. The garnishee has no duty to de-

termine whether money or property held by the garnishee is exempt from garnishment or to determine whether the money or property is garnishable property.

(2) If the garnishee makes payment of garnished money to the garnishor or to the court administrator under subsection (1) of this section, or delivers garnished property to the sheriff in the manner provided by ORS 18.600 to 18.850, the garnishee is discharged from liability to the creditor for the value of the money paid or property delivered.

(3) If the garnishee requests a receipt, the sheriff or court administrator shall provide the garnishee with a receipt for any property delivered to the sheriff or payment made to the court administrator.

(4) A garnishor or the garnishor's attorney may disclose the full Social Security number for a debtor to a garnishee if the garnishee requests the number for the purpose of identifying the debtor.

(5) A garnishee is not liable to any person by reason of using all or part of a debtor's Social Security number for the purpose of identifying the debtor. [2001 c.249 §21; 2003 c.576 §54; 2009 c.230 §4]

18.670 Exceptions to garnishee's duties. (1) A garnishee has no duty to hold or deliver any property under a writ of garnishment if the property has been released by a court order or a release of garnishment has been delivered to the garnishee under ORS 18.770.

(2) The duty of a garnishee to hold or deliver any property under a writ of garnishment is not breached if the property is removed from the possession, control or custody of the garnishee before the garnishee can act to stop that removal through the exercise of reasonable care. [2001 c.249 §22]

18.672 Duties of personal representative who is garnished. Garnishment does not impair the powers of a personal representative over estate property for the purposes of administration. If a personal representative receives a writ of garnishment, the personal representative must prepare and deliver a garnishee response in the manner provided by ORS 18.600 to 18.850, but no payment of money or delivery of property need be made by the personal representative until such time as specified in this section. The personal representative must note on the response that the property is estate property subject to administration. The personal representative must also file a copy of the writ of garnishment and the garnishee response in the office of the court administrator for the court in which the estate is being administered, and must report the garnishment to the court in any petition for distribution. In

a judgment made upon such petition, distribution shall be ordered to the heir or legatee, but delivery shall be ordered to the sheriff or to the garnishor, as required by ORS 18.600 to 18.850. [2001 c.249 §23; 2003 c.576 §55]

(Garnishee Response)

18.680 Response required; time. (1) Except as specifically provided under ORS 18.682, a garnishee must prepare a garnishee response in substantially the form provided by ORS 18.835 and must deliver the response in the manner provided in ORS 18.690.

(2) Except as provided in subsection (3) of this section, a garnishee response must be delivered by the garnishee not later than seven calendar days after the date on which the writ of garnishment was delivered to the garnishee.

(3) If the seventh calendar day after delivery of a writ of garnishment is a Saturday, Sunday or legal holiday, a garnishee response must be delivered by the garnishee on or before the next following day that is not a Saturday, Sunday or legal holiday. [2001 c.249 §24]

18.682 When response not required. A garnishee has no duty to prepare and deliver a garnishee response if:

(1) The writ of garnishment is not delivered to the garnishee within the time provided under ORS 18.609;

(2) The garnishor fails to serve the garnishee with all items required under ORS 18.650;

(3) The garnishee receives a release of garnishment issued under ORS 18.770; or

(4) Any other law or court order directs that the response not be made. [2001 c.249 §25]

18.685 Contents of response; manner of making payment. A garnishee must note upon a garnishee response the date on which the garnishee received the writ of garnishment. The garnishee must also note upon the response the following information and deliver the response in the manner provided by ORS 18.690:

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

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

(3) If the garnishee employs the debtor, the garnishee must so state on the response and make all other responses required by this section or ORS 18.688. The garnishee must thereafter make payment under the writ in the manner provided by ORS 18.735.

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

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

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

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

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

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

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

(11) If the garnishee receives notice of a challenge to the garnishment before delivering the response, the garnishee must so note on the response. The garnishee must thereafter comply with ORS 18.708. [2001 c.249 §26; 2005 c.542 §65; 2007 c.496 §5; 2009 c.430 §7]

18.688 Response of garnishee who is employer of debtor. In addition to the requirements of ORS 18.685, if a garnishee employs the debtor, the garnishee must so note on the garnishee response and indicate the pay period and the next payday for the debtor. [2001 c.249 §27]

18.690 Delivery of garnishee response.

(1) Except as provided in subsection (2) of this section, a garnishee who is required to deliver a garnishee response must mail or personally deliver:

(a) The original of the response to the garnishor;

(b) A copy of the response to the debtor; and

(c) A copy of the response to the court administrator for the court specified in the writ of garnishment as having authority over the writ.

(2) The garnishee shall not mail or personally deliver a copy of the garnishee response to the court administrator if:

(a) The garnishee discovers that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the debtor after the debt was adjudicated as provided in ORS 18.605, and the garnishee will not make payments or deliver property under the writ pursuant to ORS 18.618 (3); or

(b) The garnishee does not employ the debtor and the garnishee has no property of the debtor in the garnishee's possession, control or custody that is garnishable property.

(3) For the purpose of compliance with ORS 18.680, delivery of a garnishee response under this section is accomplished upon mailing or upon personal delivery of the response. [2001 c.249 §28; 2003 c.85 §10; 2003 c.576 §56; 2005 c.391 §5]

18.692 Supplemental garnishee response. (1) The garnishee shall prepare a supplemental garnishee response and deliver the supplemental garnishee response to the garnishor and to the debtor, if either of the following occurs after the garnishee has delivered an initial garnishee response and before the garnishee delivers all property that is subject to garnishment under the writ of garnishment:

(a) The garnishee discovers that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the debtor under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. 101 to 1330) after the debt was adjudicated as provided in ORS 18.605; or

(b) The garnishee receives an order to withhold income that is entitled to priority under ORS 25.375.

(2) The supplemental garnishee response required under this section must be in substantially the form provided in the instructions to garnishee form set forth in ORS 18.838. [2001 c.249 §29; 2003 c.85 §11]

(Challenge to Garnishment)

18.700 Manner of making challenge to garnishment. (1) A debtor may use a challenge to a garnishment to claim such exemptions from garnishment as are permitted by law. A challenge to a garnishment may also be used by a debtor:

(a) To assert that the amount specified in the writ of garnishment as being subject to garnishment is greater than the total amount owed by the debtor to the creditor; or

(b) To assert that property is not garnishable property.

(2) A debtor may make a challenge to a garnishment by completing the challenge to garnishment form provided by ORS 18.850, or a substantially similar form, and by delivering, in person or by first class mail, the original of the completed form to the court administrator for the court specified in the writ of garnishment as the court with authority over the writ and a copy of the completed form to the garnishor. A challenge to a garnishment must be delivered:

(a) Within 120 days after a copy of the writ of garnishment is delivered to the debtor, if the garnishee is the employer of the debtor and the challenge is based on an exemption that is claimed for wages earned by the debtor from the garnishee; or

(b) Within 30 days after a copy of the writ of garnishment is delivered to the debtor, if the challenge is made on any other basis.

(3) Upon receiving a challenge to a garnishment under subsection (2) of this section, the court administrator shall retain all payments sent to the court administrator under ORS 18.705 and 18.708 until such time as the court enters a decision on the challenge. The court administrator shall reject any payment that is received after the challenge is made and that is not payable to the court, and the court administrator shall return the payment to the garnishee with instructions to reissue the payment as payable to the court.

(4) A court shall not require the payment of any fee for the filing of a challenge to a garnishment.

(5) A challenge to a garnishment may be used only for the purposes specified in this section and ORS 18.725. [2001 c.249 §30; 2003 c.85 §12; 2003 c.576 §57]

18.702 Notice to garnishor and garnishee of challenge to garnishment. (1) Without unreasonable delay, a court administrator who has received a challenge to a garnishment under ORS 18.700 shall provide written notice of the challenge as provided in this section. The notice must include a statement reflecting the consequences of failure of a garnishor or garnishee to comply with the requirements of ORS 18.705 and 18.708. The notice may include the notice of hearing under ORS 18.710.

(2) The court administrator shall provide the notice of a challenge required by subsection (1) of this section to:

(a) The garnishor.

(b) The garnishee, unless the court administrator knows that the garnishee has already delivered all garnishable property to the garnishor.

(c) The sheriff of the county identified in any notice delivered to the court administrator under ORS 18.755 (5). [2001 c.249 §31; 2003 c.576 §58]

18.705 Duties of garnishor and creditor created by challenge to garnishment. (1) Except as provided in subsection (4) of this section, upon receiving notice of a challenge to a garnishment under ORS 18.702, a garnishor who is a creditor must send to the court specified in the writ of garnishment all amounts received by the garnishor that the debtor has claimed to be exempt or not subject to garnishment, unless the court specifically orders otherwise.

(2) Except as provided in subsection (4) of this section, if the garnishor is not a creditor, upon receiving notice of a challenge to a garnishment under ORS 18.702, the garnishor must promptly send to the court specified in the writ of garnishment all amounts received under the writ that have not been delivered to the creditor and that

the debtor has claimed to be exempt or not subject to garnishment. The creditor must promptly send to the court specified in the writ all amounts that the creditor has received under the writ and that the debtor has claimed to be exempt or not subject to garnishment.

(3) Payments made to the court under this section must be in cash or by check made payable to the court. If the payment has not reached the court by the time of the hearing under ORS 18.710, the court administrator shall so notify the judge presiding at the hearing. If the court determines that any of the garnished money should be disbursed to the debtor and the payment has not reached the court by the time of that determination, the court may issue an order requiring that the garnishor or creditor appear and show cause why the garnishor or creditor should not be held in contempt. In addition to contempt proceedings, the court may require the garnishor or creditor to pay attorney fees under ORS 20.105. A court's imposition of sanctions under this subsection does not limit any remedy otherwise available to the debtor.

(4) This section does not apply if the garnishor or creditor is not allowed by law to disburse the payment to the court.

(5) The receipt of a challenge to a garnishment does not affect the requirement under ORS 18.755 (1) that the garnishor mail or deliver a written request for sale of property, and pay the fees determined by the sheriff under ORS 18.755 (3), not later than 20 days after the garnishee delivers the garnishee response to the court administrator for the court specified in the writ of garnishment as having authority over the writ. The garnishor must note upon the request for sale that a challenge to the garnishment has been made by the debtor. [2001 c.249 §32; 2003 c.85 §13; 2003 c.304 §2; 2003 c.576 §59]

18.708 Duties of garnishee created by challenge to garnishment. (1) Upon receiving notice of a challenge to a garnishment under ORS 18.702, a garnishee who would otherwise be required to make a payment to the garnishor shall mail or deliver the payment, by cash or by check made payable to the court, to the court administrator. The garnishee must make the payment to the court within the time that the garnishee would have otherwise been required to mail or deliver the payment to the garnishor. A garnishee who fails to make payment in the manner required by this section is subject to liability under the provisions of ORS 18.775 to 18.782.

(2) Upon receiving notice of a challenge under ORS 18.702, a garnishee who holds any property described in ORS 18.750 must hold

the garnished property for the period specified in ORS 18.752 (1). If the sheriff informs the garnishee before the end of the period specified in ORS 18.752 (1) that the property held by the garnishee will be sold, the garnishee shall continue to hold the property until receiving further directions from the court. [2001 c.249 §33; 2003 c.576 §60]

18.710 Hearing on challenge to garnishment. (1) A debtor's challenge to a garnishment shall be adjudicated in a summary manner at a hearing before the court with authority over the writ of garnishment. The court administrator shall immediately set a hearing date and send notice of the hearing to the garnishor, garnishee and debtor at the addresses provided in the challenge to garnishment form. The hearing shall be held as soon as possible. The garnishor shall provide a copy of the writ of garnishment to the court on or before the date set for the hearing.

(2) Hearings on a challenge to a garnishment may be held by telecommunication.

(3) The debtor has the burden to prove timely delivery of a challenge to a garnishment. [2001 c.249 §34; 2003 c.85 §14; 2003 c.576 §61]

18.712 Allowance or denial of challenge. (1) Except as provided in subsection (3) of this section, if a challenge to a garnishment is allowed by the court, the court administrator shall mail to the debtor from any payments made to the court administrator all amounts determined to be exempt from or not subject to garnishment within 10 judicial days after the court's order allowing the challenge. If the challenge to a garnishment has been made for property described in ORS 18.750 and a request for sale of the property has been made by the garnishor under ORS 18.755, the court administrator shall give notice of the court's decision to the garnishee and to the sheriff who would conduct the sale.

(2) Except as provided in subsection (3) of this section, any amount determined to be garnishable property that is not exempt after a hearing shall be mailed to the garnishor within 10 judicial days after the court's order denying the challenge as to that amount.

(3) The Judicial Department may by written policy establish time limitations different from the 10-day period provided in subsections (1) and (2) of this section for the delivery of amounts after a judicial determination on a challenge to a garnishment. The time limitations established by the department may be longer or shorter than the 10-day period. The policy may provide for a period longer than 10 days for a category of payments only if the department determines that the category is subject to special cir-

cumstances that create substantial difficulties in meeting a requirement of delivery within 10 days. The policy shall provide for delivery in less than 10 days for any category of payments that the department determines can be delivered within a shorter period of time. The department shall consider federal guidelines and rules relating to the timing of transactions in financial institutions in developing a policy under this subsection. Any policy adopted under this subsection applies to all courts of this state, except that municipal courts and justice courts are not bound by any requirement that a category of payments be delivered in less than 10 days. [2001 c.249 §35; 2003 c.576 §62]

18.715 Sanctions. (1) A court may impose sanctions against any person who files a challenge to a garnishment in bad faith. The sanctions a court may impose under this subsection are a penalty of not more than \$100 and responsibility for attorney fees under ORS 20.105.

(2) The court shall order a creditor to return any property that is garnished under a writ of garnishment and that was exempt from garnishment or not subject to garnishment, and shall order the creditor to pay a penalty of \$200 to the debtor in addition to all costs and reasonable attorney fees incurred by the debtor in recovering the property and penalty, if:

(a) The creditor is the garnishor and fails to provide in the writ any address for the debtor that is known to the creditor; or

(b) The creditor is not the garnishor and fails to provide to the garnishor any address for the debtor that is known to the creditor.

(3) The imposition of sanctions under this section does not limit any remedy otherwise available to the creditor or debtor. [2001 c.249 §36]

18.718 Special procedures for writs issued for past due support. (1) Notwithstanding ORS 18.700 (2), if a writ of garnishment is issued pursuant to ORS 25.083, the debtor may:

(a) Challenge the enforcement of the past due support in the appropriate tribunal of the state upon whose request the writ was issued as indicated in the writ of garnishment; or

(b) File a challenge to the garnishment with the court administrator for the court in the county in which the property was located when the writ was delivered, if the debtor pays the filing fee required for an appearance and files with the court administrator copies of the writ of garnishment, the debt calculation form and the garnishee response delivered to the debtor under ORS 18.658.

(2) When a challenge to a garnishment is filed under this section, the court administrator shall enter the filing in the court register and the court shall decide the challenge in the manner provided by ORS 18.710.

(3) Immediately upon receipt of a notice of a challenge to a garnishment under this section, the issuer of the writ shall file with the court administrator a response to the challenge, attaching copies of the writ of garnishment and garnishee response, and any supporting documentation necessary or helpful to the court in making a determination on the challenge. [2001 c.249 §36a; 2003 c.576 §63; 2007 c.493 §17]

(Claim by Person Other Than Debtor)

18.725 Claim by person other than debtor for all or part of garnished property. Any person other than a debtor who has an interest in any garnished property or in any part of the garnished property may assert that interest by filing with the court administrator for the court specified in the writ of garnishment an application in substantially the form set forth in ORS 18.850 for a challenge to a garnishment. The provisions of ORS 18.700 to 18.715 apply to an application made under this section. [2001 c.249 §37; 2003 c.576 §64]

(Payment of Money Under Writ Generally)

18.730 Payment of money under writ; garnishor's duty to hold payments. (1) Unless the court has directed otherwise or the garnishee has received notice that a challenge to the garnishment has been filed by the debtor, a garnishee shall make payments of money under a writ of garnishment to the garnishor.

(2) Except as provided in ORS 18.645 and 18.745, a garnishor receiving a payment under a writ of garnishment must hold the payment for a period of 10 days after receipt. The payments must be held in this state, must be clearly identifiable and must be held separate and apart from any account used for operating a business or used to pay personal or business expenses. A payment under a writ may be commingled with other garnished money.

(3) If a garnishee receives notice of a challenge to the garnishment from the court administrator under ORS 18.702, the garnishee shall cease making payments to the garnishor and shall make all further payments to the court administrator in the manner provided by ORS 18.708.

(4) Notwithstanding subsection (1) of this section, if a creditor is a state agency as defined by ORS 183.750, the garnishor may re-

quire that checks issued for payments under a writ be made payable to the garnishor or to such other person as designated by the garnishor. A state agency may modify the forms provided in ORS 18.600 to 18.850 to reflect the provisions of this subsection. [2001 c.249 §38; 2003 c.85 §15; 2003 c.576 §65]

18.732 Money owed to debtor that is due within 45 days. (1) If the property garnished by a writ of garnishment is money that is owed to the debtor and that is not due to be paid at the time the writ is delivered but that will become due within 45 days after the delivery date, the garnishee is not required to deliver the money until payment is due. Within five days after the payment is due, unless the garnishment has been satisfied or released, the garnishee must mail or deliver to the garnishor the amount of the payment then due or a portion of the payment sufficient to satisfy the garnishment, whichever is less.

(2) If the garnishee receives notice of a challenge to the garnishment at any time before the garnishee mails or delivers the amount due, the garnishee shall comply with ORS 18.708. [2001 c.249 §39]

(Payment of Nonexempt Wages)

18.735 Payment of wages subject to garnishment. Upon delivery of a writ of garnishment, a garnishee that employs the debtor shall pay to the garnishor all wages that are determined to be subject to garnishment, and that are not exempt under ORS 18.385, at the following times:

(1) The garnishee must make an initial payment when the garnishee next pays any wages to the debtor. The payment must be for all wages that were owing to the debtor on the date that the writ was delivered to the garnishee, and all amounts that are being paid to the debtor for work performed after the writ was delivered and before issuance of the paycheck. The garnishee must compute the amount of wages subject to garnishment using the wage exemption calculation form provided by ORS 18.840 and must mail a copy of the completed form along with the first payment under the writ.

(2) Unless the writ of garnishment is satisfied or released, the garnishee must make subsequent payments under the writ whenever the garnishee makes any payment of wages to the debtor during the period specified in ORS 18.625. Each time there is any change in the debtor's pay period or any change in the amount paid to the debtor during the debtor's pay period, the garnishee must complete a new wage exemption calculation form and mail a copy of the completed form along with the payment.

(3) Unless the writ of garnishment is satisfied or released sooner, the garnishee must make a final payment under the writ when the garnishee next makes a payment of wages to the debtor after the writ expires under the provisions of ORS 18.625. The payment must be for all wages that were owing to the debtor on the date that the writ expires. The garnishee must complete a new wage exemption calculation form and mail a copy of the completed form along with the final payment. [2001 c.249 §40]

18.736 Processing fee. (1) If a garnishee that employs a debtor is required to make any payment under a writ of garnishment by reason of wages payable to the debtor, the garnishee may collect a \$2 processing fee for each week of wages, or fraction of a week of wages, for which a payment is made under the provisions of ORS 18.735. The processing fee must be collected after the last payment is made under the writ. The fee shall be withheld from the wages of the debtor, and is in addition to the amounts withheld for payment to the garnishor under the writ or under any other writ delivered to the garnishee.

(2) The fee provided for in this section may not be collected if withholding of the fee would reduce the debtor's net disposable income below the minimum amounts prescribed by ORS 18.385. [2003 c.779 §3; 2009 c.529 §1]

(Payments Made to Court Administrator)

18.738 Acceptance or rejection of payments by court administrator. (1) The court administrator is not liable for accepting any amount of payment under a writ of garnishment, including any payment that is sent to the court administrator in error or any payment that exceeds the amount required to satisfy the garnishment.

(2) The court administrator may return to the garnishee any payment received from the garnishee unless the garnishee has delivered a garnishee response to the court in the manner required by ORS 18.690 or has provided a statement to the court administrator that the payment is a voluntary payment on behalf of the debtor to be applied toward satisfaction of the garnishment or is a payment under another law or court order that requires or allows the garnishee to pay money to the court. [2001 c.249 §41; 2003 c.576 §66]

18.740 Payments erroneously sent to court. (1) If a garnishee erroneously sends a payment to the court that should have been sent to the garnishor, the court administrator shall immediately forward to the garnishor any cash or check made payable to the garnishor. If a garnishee erroneously sends a payment in the form of a check made

payable to the court, the court administrator may deposit and hold the check until the check has cleared and then forward the payment to the garnishor.

(2) The court administrator is not liable for interest on money erroneously sent to the court if the court administrator transmits the money to the garnishor in a timely manner. [2001 c.249 §42; 2003 c.576 §67]

(Crediting of Payments)

18.742 Crediting of payments against debt. (1) If a garnishee makes payment to the garnishor, the payment shall be credited against the debt on the date the garnishor receives the payment.

(2) If a garnishee makes payment to the court, the payment shall be credited against the debt on the date the court administrator disburses payment to the garnishor, unless the court otherwise orders. This subsection applies even if the garnishee makes payment to the court in error or when the court administrator holds money pending a decision on a challenge to the garnishment. [2001 c.249 §43; 2003 c.576 §68]

18.745 Excess payments. Within 10 days after receiving a payment under a writ of garnishment, a garnishor or creditor must return to the debtor any amount that exceeds the amount owing on the debt. If payment was made by check, the garnishor or creditor is not required to return the payment until 10 days after the check has cleared. [2001 c.249 §44; 2003 c.85 §16]

(Property Subject to Sale by Sheriff)

18.750 Application of ORS 18.750 to 18.760. (1) A garnishee shall not deliver the property described in this section to the garnishor. If the garnishor seeks to apply the property described in this section against the debt of the debtor, the property must be sold by the sheriff in the manner specified in ORS 18.750 to 18.760.

(2) The provisions of ORS 18.750 to 18.760 apply to:

(a) Except as provided in ORS 18.618 (1)(a)(F), any money owed by a garnishee to a debtor the payment of which is not due at the time the writ of garnishment is delivered to the garnishee and the payment of which does not become due within 45 days after the date of delivery;

(b) Property of the debtor that the garnishee holds under an unexpired bailment or lease;

(c) Property of the debtor in which the garnishee has a security interest that was granted to the garnishee by the debtor before the delivery of the writ; and

(d) Any other garnishable property that is not payable in money.

(3) The property described in subsection (2)(a) to (c) of this section must be delivered by the garnishee to the purchaser in the manner provided by ORS 18.758 (3) if the interest of the debtor in the property is sold by the sheriff under ORS 18.758. Subject to the provisions of ORS 18.755, the garnishee must deliver to the sheriff any other garnishable property that is not payable in money upon receiving notice from the sheriff under ORS 18.755 (4). [2001 c.249 §45; 2005 c.542 §64; 2007 c.496 §6]

18.752 Garnishee duties. (1) If a garnishee indicates in the garnishee response that the garnishee holds any property described in ORS 18.750, the garnishee must hold the garnished property, or a portion of the property sufficient to satisfy the garnishment, for a period of 30 days after the garnishee delivers the garnishee response to the court administrator for the court specified in the writ of garnishment as having authority over the writ, unless the sheriff or the garnishor notifies the garnishee that the garnishment is released or terminated. If the sheriff contacts the garnishee during the 30-day period, the garnishee shall deliver the property to the sheriff or take such other action as may be specified in the notice given to the garnishee under ORS 18.755 (4).

(2) If the garnishee is not contacted by the sheriff before the end of the 30-day period provided for in subsection (1) of this section, the garnishment is of no further force or effect with respect to the property and the garnishee may deal with the garnished property as if the writ had not been delivered to the garnishee. [2001 c.249 §46; 2003 c.304 §3; 2003 c.576 §69a]

18.755 Request for sale; sheriff's fees.

(1) If a garnishee indicates in the garnishee response that the garnishee holds any property described in ORS 18.750, the garnishor may require that the property be sold and that the proceeds of the sale be applied against the debt owed to the creditor. A sale of the property shall be conducted by the sheriff only if the garnishor mails or delivers a written request for sale of the property, and pays the fees determined by the sheriff under subsection (3) of this section, not later than 20 days after the garnishee delivers the garnishee response to the court administrator for the court specified in the writ of garnishment as having authority over the writ. A copy of the writ and a copy of the garnishee response must be attached to the request for sale of the property.

(2) A sale of the property described in ORS 18.750 may be conducted under ORS 18.750 to 18.760 only by the sheriff of the

county in which the writ was delivered or, if the property is not located within the county in which the writ was delivered, by the sheriff of the county in which the property is located.

(3) A garnishor may request that the sheriff of a county described in subsection (2) of this section provide a statement to the garnishor of the fees that the sheriff will charge for conducting a sale of property that is described in ORS 18.750. The sheriff shall conduct such investigation as may be necessary to determine the difficulty of conducting any sale of the property under ORS 18.758, including any costs that the sheriff may incur in taking into possession any of the property described in ORS 18.750 (3). The sheriff shall determine whether the property described in ORS 18.750 (3) should be taken into possession of the sheriff, or whether the sheriff should enter into an agreement with the garnishee for the garnishee to continue to hold the property pending sale by the sheriff. The sheriff shall provide the statement of fees to the garnishor not later than five days after the garnishor requests the statement.

(4) If the garnishor mails or delivers a written request for sale of property and pays the sheriff fees determined under subsection (3) of this section within the time allowed by subsection (1) of this section, the sheriff shall promptly mail or deliver a written notice to the garnishee. The notice shall direct the garnishee to:

(a) Hold all property described in ORS 18.750 (2)(a) to (c) until the garnishee receives further instructions with respect to disposition of the property; and

(b) Deliver all property described in ORS 18.750 (2)(d) to the sheriff, unless the sheriff has agreed with the garnishee that the property should continue to be held by the garnishee pending sale.

(5) Upon sending a notice to a garnishee under subsection (4) of this section, the sheriff shall mail or deliver a copy of the notice to the court administrator for the court with authority over the writ.

(6) A sheriff is not liable to the garnishor, the debtor or any other person for loss of, or damage to, property that is not delivered to the sheriff pending sale of the property. [2001 c.249 §47; 2003 c.304 §4; 2003 c.576 §69; 2011 c.195 §3]

18.758 Sheriff's sale. (1) A sheriff shall sell property under ORS 18.750 to 18.760 in the same manner in which property is sold on execution. If the debtor owns only part of the property, the sheriff shall sell the interest of the debtor in the property. The date

scheduled by the sheriff for the sale of the property must be:

(a) Within 20 days after notice is sent to the garnishee under ORS 18.755 (4), if the garnishee is directed to continue to hold the property pending sale by the sheriff; or

(b) Within 20 days after the property is delivered to the sheriff, if the garnishee is directed to deliver the property to the sheriff under ORS 18.755 (4).

(2) If the garnishor notifies the sheriff that property should be released to the debtor, the sheriff shall promptly release the property.

(3) If the garnishee continues to hold property of the debtor pending sale of the property under ORS 18.750 to 18.760, within five days after the sale of property under this section the sheriff shall advise the garnishee in writing of the identity of the purchaser and that the purchaser is entitled to possession of the property or to possession of the debtor's interest in the property. If the property is a debt owed to the debtor for which payment is not due or is subject to a bailment, lease or security interest that has not yet expired or been satisfied or released, the garnishee need not deliver the property to the purchaser until five days after payment is due, the bailment or lease has expired, or the indebtedness secured by the property is satisfied or the security interest is released. [2001 c.249 §48; 2007 c.255 §1]

18.760 Challenge to garnishment. If the sheriff receives notice of a challenge to the garnishment pursuant to ORS 18.702 after a request for sale of property has been submitted by the garnishor under ORS 18.755, the sheriff shall not take possession of or sell any property that is subject to the challenge. If the sheriff has taken property into possession before receiving the notice provided for in ORS 18.702, the sheriff shall hold the property pending the court's determination on the challenge. Upon receiving notice of the court's determination under ORS 18.712, the sheriff shall proceed as directed by the court. [2001 c.249 §49]

(Release of Garnishment)

18.770 Release of garnishment. (1) A garnishor may issue a release of garnishment that covers all or any portion of the property held under a writ of garnishment. The release must be in substantially the form provided by ORS 18.842. The garnishor must deliver a copy of the release to the garnishee and the debtor. In addition, the garnishor must deliver a copy of the release to:

(a) The sheriff, if the garnishor has made a request for sale of property under ORS 18.755; and

(b) The court administrator for the court specified in the writ of garnishment as the court with authority over the writ, if the garnishor has made a request for sale of property under ORS 18.755 or if the garnishor has received a challenge to the garnishment.

(2) A person who does not receive a copy of a release under this section is not liable for treating the property as though the writ were still in effect.

(3) Any proceedings for the sale of property under ORS 18.758 shall be terminated immediately upon receipt by the sheriff of a copy of a release of garnishment.

(4) Upon receipt of a copy of a release under this section, the garnishee may proceed to deal with the released property as though the writ of garnishment had not been issued. [2001 c.249 §50; 2003 c.576 §70]

(Sanctions Against Noncomplying Garnishee)

18.775 Liability of garnishee. (1) If a garnishee fails to file a garnishee response within the time required by law, or fails to deliver all garnishable property required to be delivered under the writ of garnishment within the time required by law, the garnishee is liable to the creditor in an amount equal to the lesser of:

(a) The amount required to satisfy the garnishment; or

(b) The value of the debtor's garnishable property held by the garnishee at the time the writ is delivered to the garnishee.

(2) A judgment may be entered against the garnishee for the amounts specified in this section if, after a hearing, the court finds that:

(a) The garnishee at the time of the delivery of the writ of garnishment held garnishable property of the debtor beyond the amount reported in the garnishee response;

(b) The garnishee held any garnishable property of the debtor and the garnishee failed to make a response; or

(c) The garnishee failed to deliver garnishable property required to be delivered under the writ.

(3) A supplemental judgment shall be entered under subsection (2) of this section if the garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general judgment has been entered in the action. A limited judgment shall be entered under subsection (2) of this section if the garnishment was issued for a debt described in ORS 18.605 (1)(a) and a general judgment has not been entered in the action. A limited or general

judgment shall be entered under subsection (2) of this section if the garnishment was issued for a debt described in ORS 18.605 (1)(b), (c) or (d).

(4) If a garnishee is liable to a creditor under subsections (1) and (2) of this section, the creditor may also recover costs of the creditor as determined under ORCP 68. If the garnishee fails to file a garnishee response within the time required by law, the costs of the creditor may be recovered from the garnishee even if it is determined that the garnishee held no garnishable property of the debtor at the time the writ was delivered to the garnishee.

(5) Any amounts from a garnishee collected other than costs under a judgment entered pursuant to this section must be credited against the debt owed by the debtor to the creditor. [2001 c.249 §51; 2009 c.484 §8]

18.778 Order to appear. (1) If a garnishee fails to provide a garnishee response within the time required by law, or the response is unsatisfactory to the garnishor, or the garnishee fails to deliver garnishable property under the writ of garnishment within the time required by law, upon application of the garnishor, the garnishee may be ordered by the court to appear at a specified time and place for an examination. In addition to or in lieu of an order to appear for examination, the court may order the garnishee to appear for a hearing under ORS 18.782 to determine whether the garnishee should be held liable for the amount specified in ORS 18.775.

(2) At any time after a garnishor applies for an order under this section, the court may enter an order restraining the garnishee from in any manner disposing of or injuring any of the property of the debtor alleged by the garnishor to be in the garnishee's possession.

(3) Disobedience of any order of the court under this section, or refusal to answer any question upon appearance under an order to appear for examination, may be punished as contempt. [2001 c.249 §52]

18.780 Pleadings; default judgment. (1) If the court orders a garnishee to appear for a hearing under ORS 18.782, the garnishor must serve upon the garnishee written allegations not less than 20 days before the time set for the hearing or within such time as may be specified in the order. The allegations must inform the garnishee that if the garnishee fails to answer the allegations not less than 10 days before the time when the garnishee is required to appear for hearing, default judgment may be given against the garnishee for an amount no greater than the judgment against the debtor, plus any costs

awarded by the court in the proceeding. The garnishor may also serve upon the garnishee, not less than 20 days before the time set for the hearing or within such time as may be specified in the order, written interrogatories concerning matters relating to the garnishment.

(2) Unless further time is allowed for good cause, not less than 10 days before the time when the garnishee is required to appear for hearing, the garnishee must file with the court an answer to the allegations and interrogatories of the garnishor and deliver a true copy of the answer to the garnishor. The answer shall be on oath and shall contain a full response to all of the allegations and interrogatories.

(3) The garnishor may except to the answer of the garnishee for insufficiency, within such time as may be allowed by the court. If the answer is adjudged insufficient, the garnishee may be allowed to amend the answer.

(4) If the garnishee fails to answer as required under subsection (2) of this section, the creditor may have judgment against the garnishee for want of answer. In no case shall default judgment be given against the garnishee for an amount greater than the judgment against the debtor, plus any costs awarded by the court in the proceeding. The judgment provided for in this subsection is in lieu of any judgment under ORS 18.775. Any amounts other than costs collected from a garnishee under a judgment entered pursuant to this subsection must be credited against the debt owed by the debtor to the creditor. [2001 c.249 §53]

18.782 Hearing. Witnesses, including the debtor and garnishee, may be required to appear and testify at a hearing held pursuant to an order issued under ORS 18.778. The proceedings against a garnishee shall be tried by the court as upon the trial of an issue of law between a plaintiff and defendant. [2001 c.249 §54]

(Financial Institution as Garnishee)

18.784 Certain financial institution deposits not subject to garnishment; garnishment account review. (1) Except as provided in subsection (6) of this section, if a writ of garnishment is delivered to a financial institution that has an account of the debtor, the financial institution shall conduct a garnishment account review of all accounts in the name of the debtor before taking any other action that may affect funds in those accounts. If the financial institution determines from the garnishment account review that one or more payments described in subsection (3) of this section were deposited in an account of the debtor by direct

deposit or electronic payment during the lookback period described in subsection (2) of this section, an amount equal to the lesser of the sum of those payments or the total balance in the debtor's account is not subject to garnishment.

(2) The provisions of this section apply only to payments described in subsection (3) of this section that are deposited during the lookback period that ends on the day before the day on which the garnishment account review is conducted and begins on:

(a) The day in the second calendar month preceding the month in which the garnishment account review is conducted, that has the same number as the day on which the period ends; or

(b) If there is no day as described in paragraph (a) of this subsection, the last day of the second calendar month preceding the month in which the garnishment account review is conducted.

(3) The provisions of this section apply only to:

(a) Federal benefit payments;

(b) Payments from a public or private retirement plan as defined in ORS 18.358;

(c) Public assistance or medical assistance, as defined in ORS 414.025, payments from the State of Oregon or an agency of the State of Oregon;

(d) Unemployment compensation payments from the State of Oregon or an agency of the State of Oregon;

(e) Black lung benefits payments from the United States Department of Labor; and

(f) Workers' compensation payments from a workers' compensation carrier.

(4) The provisions of this section apply only to a payment that a financial institution can identify as being one of the types of payments described in subsection (3) of this section from information transmitted to the financial institution by the payor.

(5) A financial institution shall perform a garnishment account review only one time for a specific garnishment. If the same garnishment is served on a financial institution more than once, the financial institution may not perform a garnishment account review or take any other action relating to the garnishment based on the second and subsequent service of the garnishment.

(6) A financial institution may not conduct a garnishment account review under this section if a Notice of Right to Garnish Federal Benefits from the United States Government or from a state child support enforcement agency is attached to or included in the garnishment as provided in 31

C.F.R. part 212. If a Notice of Right to Garnish Federal Benefits is attached to or included in the garnishment, the financial institution shall proceed on the garnishment as otherwise provided in ORS 18.600 to 18.850.

(7) The provisions of this section do not affect the ability of a debtor to claim any exemption that otherwise may be available to the debtor under law for any amounts in an account in a financial institution. [Formerly 18.619; 2013 c.688 §4]

18.785 Duties of financial institution; notice to account holder. (1) Except as provided in this section, if a financial institution determines from a garnishment account review conducted under ORS 18.784 (1) that one or more payments described in ORS 18.784 (3) have been deposited into the debtor's account by direct deposit or electronic payment during the lookback period described in ORS 18.784 (2), and there is a positive balance in the account at the time the garnishment account review is conducted, the financial institution shall:

(a) Immediately calculate and establish the amount in the debtor's account that is not subject to garnishment and ensure that the debtor has full customary access to that amount; and

(b) Issue a notice to the account holder in substantially the form set forth in ORS 18.847.

(2) A financial institution shall issue the notice required by this section directly to the account holder or to a fiduciary who administers the account and receives communications on behalf of the account holder.

(3) The notice required by this section must be sent separately to the debtor and may not be included with other materials being provided to the debtor by the financial institution that do not relate to the garnishment.

(4) The notice required by this section must be sent to the account holder within three business days after the financial institution completes the garnishment account review required by ORS 18.784 (1).

(5) A financial institution shall perform the calculation described in subsection (1) of this section for each account of the account holder. However, the financial institution may issue a single notice under this section for multiple accounts of the same account holder.

(6) Issuance of a notice under this section does not constitute the giving of legal advice and a financial institution is not obligated to provide legal advice by reason of issuing a notice required by this section. [2011 c.733 §4]

18.787 Liability of financial institution. A financial institution is not liable to any account holder, garnishor or other financial institution, and may not be assessed any penalty, by reason of any action taken by the financial institution in good faith under ORS 18.784 or 18.785, including:

(1) Delivery or refusal to deliver any funds that are not subject to garnishment under ORS 18.784 to a garnishor;

(2) Providing the notice required by this section to an account holder;

(3) Customary clearing and settlement adjustments made to a debtor's account that affect the balance in the debtor's account; and

(4) Any bona fide errors that occur under ORS 18.784 or 18.785 despite reasonable procedures implemented by the financial institution to prevent those errors. [2011 c.733 §5]

18.788 Compliance records. A financial institution shall maintain records of account activity and actions taken by the financial institution in response to a garnishment that are adequate to demonstrate compliance with the requirements of ORS 18.784 and 18.785 for a period of not less than two years after the financial institution receives the writ of garnishment. [2011 c.733 §6]

18.790 Search fee; garnishment processing fee. (1) Except as provided in subsection (4) of this section, at the time of delivery of any writ of garnishment on a financial institution or at the time a notice of garnishment is delivered to the financial institution under ORS 18.854:

(a) A search fee of \$10 must be paid to the financial institution if the garnishor is the Department of Revenue.

(b) A search fee of \$15 must be paid to the financial institution if the garnishor is a person other than the department.

(2) A separate search fee must be paid under this section to the financial institution for each debtor if the writ is issued for more than one debtor under ORS 18.607 (5).

(3) If the search fee required under this section is not paid:

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

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

(4) The search fee required under this section need not be paid to a financial institution if the debtor is an employee of the financial institution.

(5) Notwithstanding subsection (1) of this section, a financial institution may enter into an agreement with any state agency authorized to garnish pursuant to ORS 18.645 or

18.854 for periodic billing and payment of garnishee search fees required under this section.

(6) The right of a financial institution to receive the search fee required under this section does not in any way restrict or impair the right of the financial institution to charge and collect an additional garnishment processing fee from any debtor whose property the financial institution holds, or to whom the financial institution owes money. However, a financial institution may not charge or collect a garnishment processing fee in violation of ORS 652.610. If a financial institution charges a garnishment processing fee, the financial institution may collect the fee by deducting the amount of the fee from any amount that the financial institution owes to the debtor.

(7) If a garnishment account review reveals that a payment was made by direct deposit or electronic payment to the debtor's account during the lookback period described in ORS 18.784 (2), the financial institution may not charge or collect a garnishment processing fee under subsection (6) of this section against the amount that is not subject to garnishment, and may not charge or collect a garnishment processing fee under subsection (6) of this section against any amounts in the account after the date of the garnishment account review. [2001 c.249 §55; 2003 c.85 §16a; 2007 c.356 §1; 2009 c.430 §5; 2011 c.733 §7]

18.792 Safe deposit boxes. (1) Notwithstanding any other provision of ORS 18.600 to 18.850, but subject to the provisions of ORS 18.854, the duty of a financial institution that is a garnishee to deliver any property of the debtor that may be contained in a safe deposit box that is in the garnishee's possession, control or custody at the time the writ of garnishment is delivered is conditioned upon the garnishor first paying to the garnishee, in addition to the search fee provided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe deposit box. The costs must be paid to the garnishee by the garnishor before access to the safe deposit box is granted. If the garnishor fails to pay such costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment shall not be effective to garnish any property of the debtor that may be contained in the safe deposit box and the garnishee may proceed to deal with the safe deposit box and its contents as though the writ of garnishment had not been issued. Nothing in this section limits the right of a garnishor to reach the contents of any safe deposit box in any manner otherwise provided by law.

(2) If a sheriff is instructed to seize and sell the contents of a safe deposit box, and

the box is found to contain an identification document, such as a driver license, passport, certified copy of a record of live birth or Social Security card, the sheriff shall take possession of the identification document, but the document may not be sold to satisfy the debt. [2001 c.249 §56; 2011 c.195 §5; 2013 c.366 §49]

18.795 Setoff for amounts owing to financial institution. In addition to such rights as the garnishee may have at law or in equity, a garnishee who is a financial institution may, following delivery of a writ of garnishment to the garnishee, set off such sums as are due from the debtor at the time the writ of garnishment is delivered. A garnishee may not set off any amounts that are not otherwise due to be paid but that have been accelerated after the delivery of a writ of garnishment. Notwithstanding any other provision of ORS 18.600 to 18.850, such a garnishee shall have no obligation to remit any sums upon the garnishment that the garnishee has set off pursuant to this section. A garnishee who sets off amounts pursuant to this section shall disclose the fact and the amount of the setoff in the garnishee response required by ORS 18.680, and must certify in the response that the amount set off by the garnishee was due from the debtor to the garnishee at the time the writ was delivered. [2001 c.249 §56a]

18.798 Effect of garnishment served on financial institution. Notwithstanding any other provision of ORS 18.600 to 18.850, if a writ of garnishment is delivered to a financial institution after 4 p.m. and the financial institution has a deposit account held in the name of the debtor, the writ of garnishment only garnishes moneys on deposit in the account at the beginning of the business day next following the day on which the writ is delivered. [2001 c.249 §56b]

(Writs Issued to Enforce Agency Orders or Warrants)

18.800 Special procedures for writs issued to enforce agency orders or warrants. (1) Except as provided in this section, the provisions of ORS 18.600 to 18.850 apply to all writs of garnishment issued on behalf of agencies for the enforcement of agency orders or warrants that are recorded in the County Clerk Lien Record.

(2) Notwithstanding ORS 18.690, a garnishee who receives a writ of garnishment described in subsection (1) of this section need not deliver a copy of the garnishee response to the court administrator for the court identified as having authority over the writ.

(3) Notwithstanding ORS 18.700, a debtor who wishes to make a challenge to a writ of

garnishment described in subsection (1) of this section must deliver the challenge in person or by first class mail to the garnishor within the time specified by ORS 18.700 (2).

(4) A person issuing a writ of garnishment described in subsection (1) of this section shall modify the forms provided in ORS 18.600 to 18.850 to reflect that:

(a) The writ of garnishment is issued pursuant to an order or warrant recorded in the County Clerk Lien Record;

(b) A copy of the garnishee response need not be delivered or mailed to the court administrator for the court identified in the writ; and

(c) A challenge to a writ of garnishment described in subsection (1) of this section must be delivered to the garnishor and not to the court.

(5) Within 14 days after receipt of a challenge to a garnishment described in subsection (1) of this section, the garnishor must either:

(a) Release all property claimed as exempt from or not subject to garnishment under the challenge to the garnishment; or

(b) File with the court administrator a response to the challenge attaching copies of the writ and garnishee response and any supporting documentation necessary or helpful to the court in making its determination on the challenge to the garnishment.

(6) The provisions of this section do not apply to writs of garnishment issued by the court administrator, writs issued by an attorney for the enforcement of an order recorded under ORS 671.707 or 701.153 or writs issued by the administrator, as defined in ORS 25.010, under ORS 18.645. [2001 c.249 §57; 2003 c.576 §71; 2007 c.836 §40]

(Use of Writ for Provisional Process)

18.810 Use of writ for provisional process. (1) Notwithstanding any other provision of ORS 18.600 to 18.850, a debt calculation form need not be prepared or delivered for any writ of garnishment issued pursuant to an order for provisional process under ORCP 83 and 84.

(2) Notwithstanding ORS 18.730, if a writ of garnishment is issued pursuant to an order for provisional process under ORCP 83 and 84, all payments of money by the garnishee under the writ shall be made to the court administrator for the court specified in the writ as the court with authority over the writ. The court administrator shall hold the money pending entry of a judgment against the debtor unless the court finds, upon a challenge to the garnishment made by the debtor under ORS 18.700, that all or

part of the money is exempt from execution or not subject to garnishment. If judgment is entered in favor of the debtor, the judgment must direct the court administrator to pay the money to the debtor. If judgment is entered in favor of the creditor, the judgment must direct the court administrator to pay to the creditor as much of the money as will satisfy the judgment and to pay the remainder to the debtor.

(3) Notwithstanding ORS 18.750 to 18.760, if a writ of garnishment is issued pursuant to an order for provisional process under ORCP 83 and 84, the sheriff shall not sell any property described in ORS 18.750 before a judgment is entered in the proceedings, unless the court finds, upon a challenge made by the debtor under ORS 18.700, that all or part of the property is exempt from execution or is not subject to garnishment. If judgment is entered in favor of the debtor, the judgment must direct the sheriff to deliver the property to the debtor. If judgment is entered in favor of the creditor, the judgment must direct the sheriff to sell the property in the manner provided by ORS 18.758.

(4) If property taken into the possession of the sheriff under a writ of garnishment issued pursuant to an order for provisional process under ORCP 83 and 84 is perishable, or the cost of storing the property is great, the sheriff shall sell the property in the same manner in which property is sold on execution. The proceeds shall be held and distributed in the same manner as provided in subsection (2) of this section for payments made under the writ.

(5) The court administrator shall attach to any writ of garnishment issued pursuant to an order for provisional process under ORCP 83 and 84 a notice that informs the garnishee of the provisions of subsection (2) of this section. [2001 c.249 §58; 2003 c.576 §72]

(Forms)

18.830 Writ of garnishment form. A writ of garnishment must be in substantially the following form:

_____ COURT
COUNTY OF _____

Plaintiff,)
) WRIT OF
) GARNISHMENT
))
vs.) Case No. _____
))

Defendant.)

TO: _____.

You are now a Garnishee. AS A GARNISHEE, YOU NEED TO KNOW THE FOLLOWING:

_____ (who is called the “Debtor”) owes money to _____ (who is called the “Creditor”). A judgment was entered against the Debtor for the debt, or the debt otherwise became subject to garnishment, on _____, 2____. The Debtor’s employer identification number, or the final four digits of the Debtor’s Social Security number, is _____ (insert if known).

The amount subject to garnishment is \$_____.

This writ garnishes all of the following:

- Wages that you owe the Debtor at the time this writ is delivered to you, and all wages that the Debtor earns during the 90-day period following the date on which you receive this writ.
- All property of the Debtor (including money) that is in your possession, control or custody at the time this writ is delivered to you.
- All debts that you owe the Debtor at the time this writ is delivered to you, whether or not payment is due on the debt at the time you receive this writ.

YOU MUST ANSWER THIS WRIT BY COMPLETING THE ATTACHED GARNISHEE RESPONSE WITHIN THE TIME ALLOWED BY LAW, WHETHER OR NOT YOU HOLD ANY OF THE DEBTOR’S PROPERTY OR OWE ANYTHING TO THE DEBTOR. IF YOU DO NOT TRUTHFULLY ANSWER THIS WRIT, OR YOU DO NOT DELIVER MONEY OR PROPERTY WHEN YOU ARE REQUIRED TO DO SO, YOU WILL BE LIABLE TO THE CREDITOR.

If you have questions, you should contact an attorney. Court employees cannot give you legal advice. The Creditor’s attorney cannot give you legal advice.

A writ of garnishment may be issued only by the court administrator, by the attorney for the Creditor or by a person who is specifically authorized by law to issue garnishments. This writ is issued by (check one):

- The court administrator
- The attorney for the Creditor
- Other authorized issuer:

Name and title _____
Statutory authority to issue writ _____

This writ is valid only if it has been delivered to you within 60 days after the date of issuance. If the court administrator is issuing this writ, the date of issuance is the date the court administrator signs the writ (see “COURT SEAL” below). If this writ is issued by any other person, the date of issuance is the date on which the issuer signs the certification (see “CERTIFICATION” below).

IMPORTANT ADDRESSES

(see Step 2 of Instructions to Garnishee form)

(Court Administrator)

_____ Court
Street address _____
City _____ County _____
State _____ Zip Code _____

(Debtor)

Name _____
Telephone number (if known) _____
— Street address _____
City _____ State _____
Zip Code _____

— Creditor has no knowledge of Debtor’s address

(Garnishor; check one)

— Creditor: (Must be filled in if the court administrator issues writ.)
Name _____
Street address _____
City _____ State _____
Zip Code _____

— Attorney for Creditor:
Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____
Oregon State Bar number _____

— Other authorized issuer of writ:
Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____

CERTIFICATION

(The following certification must be signed by the Creditor if this writ is issued by the court administrator. In all other cases, the following certification must be signed by the person issuing the writ.)

I certify that I have read this writ of garnishment and to the best of my knowledge, information and belief, there is good ground to support issuance of the writ, and the amount indicated as subject to garnishment is lawfully subject to collection by this writ.

Signature _____, 2____ Date _____

Oregon State Bar No. (if attorney)

COURT SEAL

(To be completed only if this writ is issued by the court administrator. The writ must be stamped by the court administrator. The court administrator has not calculated any amounts on the writ and is not liable for errors made in the writ by the Creditor.)

Issued by the court administrator this ____ day of _____, 2____.

COURT ADMINISTRATOR

By _____

[2001 c.249 §59; 2003 c.85 §17; 2003 c.576 §73; 2009 c.230 §5]

18.832 Debt calculation form. (1) A debt calculation form shall be prepared for each writ of garnishment issued. A copy of the form need not be served on the garnishee, but a copy must be delivered to the debtor along with a copy of the writ in the manner required by ORS 18.658.

(2) A debt calculation form must be in substantially the following form:

_____ COURT COUNTY OF _____

Plaintiff,) DEBT vs.) CALCULATION) Case No. _____ Defendant.)

TO: _____ (Debtor).

The following amounts have been calculated to be owing from you to _____ (Creditor). The amounts are owed by reason of:

— A judgment entered against you dated _____, 2____, in Case No. _____, _____ Court, _____ County.

— Other debt subject to garnishment under the law (provide details):

THE COURT ADMINISTRATOR HAS NOT CALCULATED ANY AMOUNTS FOR THE PURPOSE OF THIS FORM AND IS NOT LIABLE FOR ERRORS IN THIS FORM OR IN THE WRIT OF GARNISHMENT MADE BY THE CREDITOR OR GARNISHOR.

Table with 2 columns: Description and Amount. Rows include Original Debt Amount, Pre-adjudication Interest, Attorney Fees, Cost Bill, Post-adjudication Interest, Delivery Fee for Writ, Sheriff's Fees, Other (Explain. Attach additional sheets if necessary.), Total "Other" from additional sheets (if used), Past Writ Issuance Fees, Past Delivery Fees, Transcript and Filing Fees for Other Counties, Subtotal, LESS Payments Made on Debt, Total Amount Required to Satisfy Debt in Full.

NOTE: INSERTING ITEMS AND AMOUNTS NOT LAWFULLY SUBJECT TO COLLECTION BY GARNISHMENT MAY RESULT IN LIABILITY FOR WRONGFUL EXECUTION.

I certify that I have read this Debt Calculation form and to the best of my know-

ledge, information and belief the amount shown as owing is correct.

Creditor (Creditor must sign if writ issued by court administrator.)

Garnishor (Attorney for Creditor or other person authorized by law to issue writ.)

Address

Telephone Number

Oregon State Bar Number (if attorney)

Date of Calculation, 2

[2001 c.249 §60; 2003 c.576 §74]

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

COURT
COUNTY OF
Plaintiff,
vs.
Defendant.
)
) GARNISHEE
) RESPONSE
) Case No.
)
)
)
)
)

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

PART I: DEBTOR'S PROPERTY
GENERALLY

(ALL GARNISHEES MUST FILL OUT THIS PORTION OF THE RESPONSE)

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

I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor after the date shown on the face of the writ as the date on which the judgment was entered against the

Debtor or after the debt otherwise became subject to garnishment. (You need not complete any other part of this response, but you must sign the response and deliver it in the manner specified in Step 2 of the Instructions to Garnishee form.)

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

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

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

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

I owe the following debt or other obligation to the Debtor (other than wages) that will not become due within 45 days after the date that the writ was delivered to me. I will not make any payments on the debt or obligation until I receive instructions from the Sheriff or until 30 days have passed from the date on which I deliver this response. (See Instructions to Garnishee form.)

I have in my possession, control or custody the following personal property (other than money) that belongs to the Debtor. I will hold all of the property for the Garnishor until I receive instructions from the Sheriff or until 30 days have passed from the

date on which I deliver this response. (See Instructions to Garnishee form.)

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

— (FINANCIAL INSTITUTIONS ONLY) We hold one or more accounts for the Debtor, of which \$_____ is not subject to garnishment under ORS 18.784. We are forwarding all other garnishable amounts, or enough of it to satisfy the garnishment, to the Garnishor.

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

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

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

— Other (Explain)

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

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

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

— I employ the Debtor. The Debtor is paid on a _____ basis (insert "weekly," "monthly" or other pay period). Wages will next be payable to the Debtor on the _____ day of _____, 2____. I will complete a Wage Exemption Calculation form for each payment of wages that is made during

the 90-day period immediately following the date that the writ of garnishment was delivered to me. I will also complete a Wage Exemption Calculation form for the payday immediately following the end of the 90-day period. I will forward to the Garnishor on each of these occasions those wages calculated to be subject to garnishment, or enough of those wages to satisfy the garnishment.

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

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

Dated _____, 2__

Name of Garnishee

Signature

Telephone number

Fax number (if available)

Address

[2001 c.249 §61; 2003 c.85 §18; 2003 c.576 §75; 2005 c.542 §66; 2009 c.430 §8]

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

INSTRUCTIONS TO GARNISHEE

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

or before the next following day that is not a Saturday, Sunday or legal holiday.

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

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

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

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

STEP 1. FILL OUT THE GARNISHEE RESPONSE.

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

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

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

If you are the employer of the Debtor at the time the writ is delivered to you, you must put a check by the appropriate state-

ment in Part I. In addition, you must complete Part II of the response.

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

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

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

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

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

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

Debtor on the date the writ is delivered to you.

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

Example 1: Debtor A is employed by you and is paid a monthly salary on the first day of each month. You receive a writ of garnishment on July 17. The writ garnishes all wages that you owe to Debtor A for work performed on or before July 17. If Debtor A was paid on July 1 for services performed in the month of June, the writ garnishes Debtor A's salary for the period beginning July 1 and ending October 15 (90 days after receipt of the writ).

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

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

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

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

If any wages are not garnishable by reason of the issuance of instructions to a financial institution or a payroll administrator as described above, you must so note in the Garnishee Response. Thereafter, you must pay to the Garnishee all wages that are subject to garnishment that are attributable to services performed by the Debtor during the 90-day period following the date you received the writ.

Calculation of wages subject to garnishment. A Wage Exemption Calculation form is attached to the writ of garnishment. You

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

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

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

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

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

(b) Unless the writ of garnishment is satisfied or released, during the 90-day period following the date you received the writ, you must pay to the Garnishor all wages that are determined to be subject to garnishment whenever you issue a paycheck to the Debtor. If the Debtor is paid on a weekly basis, you must make payment under the writ on a weekly basis. If the Debtor is paid on a monthly basis, you must make payment

under the writ on a monthly basis. If the amount paid to the Debtor varies from paycheck to paycheck, or changes at any time from the amount being paid at the time the writ was delivered to you, you must perform a new wage exemption computation to determine the amount of wages subject to garnishment under the writ. You must send a copy of the new Wage Exemption Calculation form with your payment to the Garnishor.

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

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

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

Processing fee. You may collect a \$2 processing fee for each week of wages, or fraction of a week of wages, for which a payment is made under the writ. The fee must be collected after you make the last payment under the writ. The fee must be withheld from the wages of the debtor, and is in addition to the amounts withheld for payment to the garnishor under the writ or under any other writ you have received.

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

STEP 2. DELIVER THE GARNISHEE RESPONSE.

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

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

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

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

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

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

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

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

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

STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

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

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

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

IF YOU ARE HOLDING PROPERTY THAT BELONGS TO THE DEBTOR, OR OWE A DEBT TO THE DEBTOR THAT WILL NOT BECOME DUE WITHIN 45 DAYS AFTER THE DATE YOU RECEIVED THE WRIT, you must keep the property or debt in your possession, control or custody until you receive written notice from the Sheriff. The Sheriff's notice will tell you what to do with the property or debt. If you have followed all of the instructions in the writ and you receive no notice from the Sheriff within 30 days after the date on which you delivered your Garnishee Response, you may treat the writ as being of no further force or effect.

EXCEPTIONS:

1. Challenge to garnishment or specific directions from court. If you are making any payments under the garnishment and before making a payment you receive notice of a challenge to the garnishment from the court, or receive a specific direction from the court to make payments to the court, you must

send or deliver the payment directly to the court administrator. If the money is currently due when you receive the notice, send the payment promptly to the court. If the payment is for a debt that is payable within 45 days after you receive the writ, make the payment to the court promptly when it becomes due. If you make payment by check, make the check payable to the State of Oregon. Because you may be liable for any payment that does not reach the court, it is better not to send cash by mail.

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

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

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

4. Subsequent events:

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

(b) Order to withhold income. If you make your response and then receive an order to withhold income that has priority over

the writ, you may make payments or deliver property under the writ only after payment of the amounts required under the order to withhold income. If you have not delivered all property that is subject to garnishment under this writ when you receive an order to withhold income that has priority, you must mail the following notice to the Garnishor and to the Debtor.

SUPPLEMENTAL GARNISHEE
RESPONSE

TO: The Garnishor and the Debtor

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

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

- I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor after the judgment was entered against the Debtor or after the debt otherwise became subject to garnishment.
- I have received an order to withhold income of the Debtor by reason of a support obligation. Under ORS 25.375, the order to withhold income has priority over any other legal process under Oregon law against the same income. The withholding of income pursuant to the order to withhold income might reduce or eliminate subsequent payments under the garnishment. (Provide details, including the name of the agency serving the order to withhold, the date the order was served on you and the amounts to be withheld.)

Dated _____, 2__

Name of Garnishee

Signature

Address

SPECIAL INSTRUCTIONS FOR BANKS
AND OTHER FINANCIAL INSTITUTIONS

Unless a Notice of Right to Garnish Federal Benefits from the United States Government or from a state child support enforcement agency is attached to or included in the garnishment, you must conduct a garnishment account review for each account that you hold for the debtor. If a Notice of Right to Garnish Federal Benefits from the United States Government or from a state child support enforcement agency is attached to or included in the garnishment, you should not conduct a garnishment account review, and should proceed upon the garnishment in the normal manner.

If you hold an account for the debtor, and any of the payments listed below has been deposited in the account by direct deposit or electronic payment during the lookback period described in ORS 18.784 (2) (the period that begins on the date preceding the date of your garnishment account review and that ends on the corresponding date of the month two months earlier, or on the last day of the month two months earlier if the corresponding date does not exist), an amount equal to the lesser of the sum of those payments or the total balance in the debtor's account is not subject to garnishment, and you may not deliver that amount to the garnishor:

(a) Federal benefit payments as defined in ORS 18.600 (payments from the United States Social Security Administration, the United States Department of Veterans Affairs, the United States Office of Personnel Management or the Railroad Retirement Board);

(b) Payments from a public or private retirement plan as defined in ORS 18.358;

(c) Public assistance or medical assistance, as defined in ORS 414.025, payments from the State of Oregon or an agency of the State of Oregon;

(d) Unemployment compensation payments from the State of Oregon or an agency of the State of Oregon;

(e) Black lung benefits payments from the United States Department of Labor; and

(f) Workers' compensation payments from a workers' compensation carrier.

If the Garnishor fails to pay the search fee required by ORS 18.790 and you do not employ the Debtor, you are not required to deliver a Garnishee Response and you may

deal with any property of the Debtor as though the garnishment had not been issued.

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

Before making a payment under the writ, you may first deduct any processing fee that you are allowed under ORS 18.790. If you are required to conduct a garnishment account review, you may not charge or collect a processing fee against any amount that is not subject to garnishment, and may not charge or collect a garnishment processing fee against any amounts in the account after the date that you conduct the review.

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

If you are required to conduct a garnishment account review and you determine from the review that one or more of the payments listed in ORS 18.784 (3) have been deposited into the debtor's account by direct deposit or electronic payment during the lookback period described in ORS 18.784 (2), and that there is a positive balance in the account, you must issue a notice to the account holder in substantially the form set forth in ORS 18.847. The notice must be issued directly to the account holder or to a fiduciary who administers the account and receives communications on behalf of the account holder. The notice must be sent separately to the account holder and may not be included with other materials being provided to the account holder that do not relate to the garnishment. You must send the notice to the account holder within three business days after you complete the garnishment account review. You may issue one notice with information related to multiple accounts of a single account holder.

[2001 c.249 §62; 2003 c.85 §19; 2003 c.576 §76; 2003 c.779 §4; 2007 c.496 §3; 2009 c.430 §9; 2009 c.529 §2; 2011 c.733 §8; 2013 c.688 §5]

18.840 Wage exemption calculation form. A wage exemption calculation form must be delivered to the garnishee with each writ of garnishment. A wage exemption cal-

calculation form must be in substantially the following form:

WAGE EXEMPTION CALCULATION
(to be filled out by employers only)

1. Debtor's gross wages for period covered by this payment..... \$ _____
2. Total amount required to be withheld by law for amount in Line 1 (Federal and state withholding, Social Security, etc.)..... \$ _____
3. Debtor's disposable wages (Subtract Line 2 from Line 1)..... \$ _____
4. Normal exemption (Enter 75 percent of Line 3)..... \$ _____
5. Minimum exemption (check one)
 - \$218 (payment of wages weekly)
 - \$435 (payment of wages every two weeks)
 - \$468 (payment of wages half-monthly)
 - \$936 (payment of wages monthly)
 - \$_____ (Any other period longer than one week, including partial payments for less than full pay period) (Multiply \$218 by number of weeks or fraction of a week)
6. Wages exempt from garnishment (Line 4 or 5, whichever is greater)..... \$ _____
7. Nonexempt wages (Subtract Line 6 from Line 3)..... \$ _____
8. Amount withheld for this pay period pursuant to a support order under support withholding process or under another writ with priority..... \$ _____
9. Wages subject to garnishment (Subtract Line 8 from Line 7)..... \$ _____

INSTRUCTIONS FOR WAGE EXEMPTION CALCULATION FORM

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

Normal wage exemption. The wage exemption calculation is based on the amount of the payment you make under the writ of

garnishment. The normal wage exemption in Line 4 is 75 percent of the employee's disposable wages in Line 3.

Minimum wage exemption. The minimum exemption in Line 5 is also based on the amount of the payment you are making. The minimum exemption is designed to ensure that an employee receives at least a certain minimum amount in any one-week period. If the payment is for a one-week period (without regard to whether the period is a calendar week or any other seven-day period), the minimum exemption is \$218. The minimum exemption is \$435 if the payment is for a two-week period. If the payment is for one-half of one month (i.e., the Debtor is paid twice each month), the minimum exemption is \$468. The minimum exemption for a monthly payment is \$936.

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

Example 1: You pay Debtor A every 10 days. Each 10-day period is equal to 1.429 weeks (10 divided by 7). The minimum exemption is \$312 ($\218×1.429 rounded to the nearest dollar).

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

Example 2: You pay Debtor A on a monthly basis. You are required to make a final payment under a writ of garnishment for the wages owing to Debtor A for the period beginning October 1 and ending October 15. This period is equal to 2.143 weeks (15 divided by 7). The minimum exemption is \$467 ($\218×2.143 rounded to the nearest dollar).

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

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

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

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

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

[2001 c.249 §63; 2003 c.85 §20; 2007 c.496 §§10,15; 2011 c.228 §2]

18.842 Release of garnishment form. A release of garnishment must be in substantially the following form:

_____ COURT
COUNTY OF _____
Plaintiff,)
) RELEASE OF
) GARNISHMENT
vs.)
) Case No. _____
)
)
Defendant.)
TO: _____ (Garnishee).

A writ of garnishment was delivered to you by the Garnishor named below on the

_____ day of _____, 2____. The following money or other property that is subject to the writ is hereby released:

- All money and property of the Debtor held by you.
— The following money or property of the Debtor held by you (provide details):

The writ of garnishment has no further force or effect with respect to the specified property.

Dated _____, 2____
Name of Garnishor
Signature
Address

[2001 c.249 §63a]

18.845 Notice of exemptions form; instructions for challenge to garnishment. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY AND INSTRUCTIONS FOR CHALLENGE TO GARNISHMENT

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

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

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

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

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

(b) \$218 per workweek.

(2) Social Security benefits.

(3) Supplemental Security Income (SSI).

(4) Public assistance (welfare).

(5) Unemployment benefits.

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

(7) Workers' compensation benefits.

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

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

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

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

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

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

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

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

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

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

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

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

(20) Public or private pensions.

(21) Veterans' benefits and loans.

(22) Medical assistance benefits.

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

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

(25) Federal annuities.

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

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

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

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

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

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

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

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

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

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

(33) Equitable interests in property.

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

(35) If the amount shown as owing on the Debt Calculation form exceeds the amount you actually owe to the creditor, the difference between the amount owed and the amount shown on the Debt Calculation form.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[2001 c.249 §64; 2001 c.538 §2a; 2003 c.79 §2; 2003 c.85 §21; 2003 c.576 §77; 2005 c.391 §2; 2005 c.456 §6; 2005 c.568 §25b; 2007 c.71 §6; 2007 c.496 §§11,16; 2009 c.430 §10; 2009 c.612 §6; 2011 c.93 §2; 2011 c.228 §3; 2011 c.317 §6; 2013 c.597 §2]

18.847 Notice to debtor of garnishment account review. The notice given by a financial institution to a debtor under ORS 18.785 (1) must be in substantially the following form:

(Name, address of financial institution)

IMPORTANT INFORMATION ABOUT YOUR ACCOUNT

Date: _____

Notice to: _____

Account Number: _____

Why am I receiving this notice?

On _____ [date on which garnishment order was served], _____ [name of financial institution] received a garnishment order from a court to garnish funds in your account. The amount of the garnishment order was for \$_____ [amount of garnishment order]. We are sending you this notice to let you know what we have done in response to the garnishment order.

What is garnishment?

Garnishment is a legal process that allows a creditor to remove funds from your

bank/credit union account to satisfy a debt that you have not paid. In other words, if you owe money to a person or company, they can obtain a court order directing your bank/credit union to take money out of your account to pay off your debt. If this happens, you cannot use that money in your account.

What has happened to my account?

On _____ [date of account review], we researched your account and identified that one or more payments identified by ORS 18.784 (1) have been deposited in the last two months (see below for a list of qualifying payments). In most cases, these payments are protected from garnishment. As required by state and federal regulations, therefore, we have established a “protected amount” of funds that will remain available to you and that will not be frozen or removed from your account in response to the garnishment order.

(Conditional paragraph if funds have been frozen)

_____ (check if applicable) Your account contained additional money that may not be protected from garnishment. As required by law, we have placed a hold on or removed these funds in the amount of \$_____ [amount frozen] and may have to turn these funds over to your creditor as directed by the garnishment order.

The chart below summarizes this information about your account(s):

ACCOUNT SUMMARY AS OF _____
[DATE OF ACCOUNT REVIEW]

| Account Number | Amount in Account | Amount Protected |
|---|-------------------------|------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| Amount Subject to Garnishment (now frozen/ removed) | Garnishment Fee Charged | |
| _____ | _____ | |
| _____ | _____ | |

(If the account holder has multiple accounts, use a separate row for each account)

Please note that these amount(s) may be affected by deposits or withdrawals after the protected amount was calculated on _____ (date of garnishment account review).

Do I need to do anything to access my protected funds?

You may use the protected amount of money in your account as you normally would.

There is nothing else you need to do to make sure that the protected amount is safe.

Who garnished my account?

The creditor who obtained a garnishment order against you is _____ (name of creditor).

What types of benefit payments are protected from garnishment?

In most cases, you have protections from garnishment if the funds in your account include one or more of the following benefit payments:

- Social Security benefits
- Supplemental Security Income benefits
- Veterans’ benefits
- Railroad retirement benefits
- Railroad Unemployment Insurance benefits
- Civil Service Retirement System benefits
- Federal Employees Retirement System benefits
- Payments from a public or private retirement plan as defined in ORS 18.358
- Public assistance or medical assistance, as defined in ORS 414.025, from the State of Oregon or an agency of the State of Oregon
- Unemployment compensation payments from the State of Oregon or an agency of the State of Oregon
- Black lung benefits payments from the United States Department of Labor
- Workers’ compensation payments from a workers’ compensation carrier

What should I do if I think that additional funds in my account are from protected benefit payments?

If you believe that funds in your account(s) should not have been frozen or removed, there are several things you can do:

You can fill out a Challenge to Garnishment form and submit it to the court.

You may contact the creditor that garnished your account and explain that funds are from protected benefit payments

and should be released to you. The creditor may be contacted at _____ (address of creditor).

You may consult an attorney to help you prove to the creditor that garnished your account that additional funds are from protected benefit payments and cannot be taken. For information about how to find an attorney, contact the Oregon State Bar's Lawyer Referral Service at (800) 452-7636 or go online to www.oregonlawhelp.org.

This notice contains all the information that we have about the garnishment order. However, if you have a question about your account, you may contact us at _____ (telephone number of financial institution).

[2011 c.733 §10; 2013 c.688 §6]

18.850 Challenge to garnishment form. A challenge to garnishment form must be in substantially the following form:

_____ COURT
COUNTY OF _____

_____) CHALLENGE TO
Plaintiff,) GARNISHMENT
vs.) Case No. _____
_____)
Defendant.)

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

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

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS GARNISHED.

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

I/We claim that the following described property or money is exempt from execution or is not subject to garnishment:

I/We believe this property is exempt from or not subject to garnishment because (the Notice of Exempt Property that you received lists most types of property that you can claim as exempt from or not subject to garnishment):

I/We claim that the total amount owed is:

I am a person other than the Debtor and I have the following interest in the property:

Name _____ Name _____
Signature _____ Signature _____
Address _____ Address _____
Telephone _____ Telephone _____
Number _____ Number _____
(Required) (Required)

TO BE COMPLETED BY GARNISHOR:

Name of Garnishor _____
Address of Garnishor _____

Name of Garnishee _____
Address of Garnishee _____

[2001 c.249 §65; 2003 c.85 §22]

NOTICES OF GARNISHMENT

18.854 Notices of garnishment generally. (1) Any state agency authorized to issue warrants to collect taxes and debts owed to the State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 184.644, 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, 657.396, 657.642, 657.646, 705.175 and 825.504, or any county tax collector authorized to issue warrants to collect taxes and debts owed to the county pursuant to ORS 311.625, may garnish property of a debtor in the possession, control or custody of a person other

than the debtor by delivering to the person all of the following:

- (a) A notice of garnishment;
- (b) A warrant, or a true copy of a warrant;
- (c) The items specified in ORS 18.650 (1)(b) to (d); and
- (d) Any garnishee's search fee payable as provided in ORS 18.790.

(2) A notice of garnishment may be issued by any person designated by the state agency or by the county tax collector. A warrant need not be recorded in the County Clerk Lien Record as a condition of issuing a notice of garnishment under the provisions of this section. The provisions of ORS 18.800 do not apply to a notice of garnishment.

(3) If any of the items described in subsection (1) of this section are not delivered to the garnishee, a notice of garnishment shall not be effective to garnish any property of the debtor, and the garnishee shall not be required to respond to the garnishment and may proceed to deal with any property of the debtor as though the notice of garnishment had not been issued.

(4)(a) Notwithstanding ORS 18.652, but subject to paragraph (c) of this subsection, a notice of garnishment and the other items required by subsection (1) of this section may be delivered in person to the garnishee by any employee of the state agency or of the county tax collector who is authorized by the agency or the county to deliver the notice of garnishment, may be mailed to the garnishee by first class or certified mail or may be sent to the garnishee by other means if the garnishee has agreed to a different delivery method.

(b) An employee who delivers documents under paragraph (a) of this subsection need not be covered by the errors and omissions insurance required in ORS 18.652.

(c) A state agency or a county may not seek sanctions against a noncomplying garnishee under ORS 18.775 unless the notice of garnishment and the other items required by subsection (1) of this section are personally delivered to the garnishee under paragraph (a) of this subsection or mailed to the garnishee by certified mail.

(5) Notwithstanding any provision of ORS 18.600 to 18.850, a debt calculation form need not be prepared or delivered for any notice of garnishment.

(6) Notwithstanding ORS 18.792, the duty of a garnishee to deliver any property of the debtor that may be contained in a safe deposit box that is in the garnishee's possession, control or custody at the time of delivery of the notice of garnishment to the

garnishee is conditioned upon the state agency or the county tax collector first paying to the garnishee, in addition to the search fee provided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector at least five days before the date the state agency or the county tax collector takes possession of the property in the safe deposit box. If the state agency or the county tax collector fails to pay such costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment shall not be effective to garnish any property of the debtor that may be contained in the safe deposit box and the garnishee may proceed to deal with the safe deposit box and its contents as though the notice of garnishment had not been issued. Nothing in this subsection limits the rights of a state agency or county tax collector to reach the contents of any safe deposit box in any manner otherwise provided by law.

(7) Except as provided in this section and ORS 18.855 and 18.857, all provisions of ORS 18.600 to 18.850 apply to notices of garnishment. The state agency or county tax collector shall modify the forms provided in ORS 18.600 to 18.850 as necessary to allow use of those forms for notices of garnishment. The form of the notice of garnishment must clearly indicate that the document is a notice of garnishment and must reflect the date of all warrants on which the notice of garnishment is based.

(8) The Attorney General may adopt model forms for notices of garnishment and other documents issued by state agencies and county tax collectors under this section and ORS 18.855 and 18.857. There is a presumption, as described in ORS 40.120, that any state agency or county tax collector that uses a model form adopted by the Attorney General under this subsection has complied with the requirements of ORS 18.600 to 18.850, and with the provisions of this section and ORS 18.855 and 18.857, with respect to the form of notices of garnishment. [Formerly 18.900; 2007 c.27 §3; 2013 c.472 §1]

Note: 18.854 to 18.857 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 18 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

18.855 Notices of garnishment issued by state agencies. (1) Notwithstanding ORS 18.607, a notice of garnishment issued by a state agency need not contain the name of a court whose authority is invoked.

(2) State agencies shall make such modifications as are necessary in the wage exemption calculation form provided by ORS

18.840 if a notice of garnishment is issued for a debt due for a state tax that is subject to the provisions of ORS 18.385 (6).

(3) Notwithstanding ORS 18.625, but subject to ORS 18.618 (2), a notice of garnishment issued by a state agency acts to garnish all wages earned by the debtor by reason of services to the garnishee until the full amount of the debt is paid or until the notice of garnishment is released by the state agency or by court order. A notice of garnishment issued by a state agency must contain language reasonably designed to notify the garnishee of the provisions of this subsection.

(4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a state agency need not deliver a copy of the garnishee response to the clerk of the court, but must deliver the original of the response to the state agency.

(5) Notwithstanding ORS 18.700, a challenge to a notice of garnishment issued by a state agency must be delivered in person or by first class mail to the state agency within the time specified by ORS 18.700 (2). Upon receiving a challenge, the state agency shall provide notice of the challenge in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff shall proceed as provided by ORS 18.760, except that upon determination of the challenge by an administrative law judge, the sheriff shall proceed as directed by the judge. Within 14 days after receiving the challenge, the state agency must either concede the challenge or give the person making the challenge opportunity for hearing. If the person making the challenge requests a hearing, the agency shall immediately refer the challenge to the Office of Administrative Hearings established under ORS 183.605. The hearing shall be conducted as soon as possible. Notwithstanding ORS 183.315, the hearing shall be conducted as a contested case hearing. An issue that was decided in a previous hearing, or for which the debtor was previously afforded an opportunity for hearing, may not be reconsidered.

(6) If a state agency is issuing a notice of garnishment for collection of a state tax, and the state agency has reason to believe that the debtor intends to leave the state or do any other act that would jeopardize collection of the tax, the state agency may issue a special notice of garnishment. Any earnings, as defined in ORS 18.375, garnished under a special notice of garnishment are not subject to a claim of exemption under ORS 18.385. A special notice of garnishment issued under this subsection garnishes only that property of the debtor that is in the garnishee's possession, control or custody at

the time the special notice is delivered, including debts not yet due, and all wages owed by the garnishee to the debtor at the time the special notice is delivered. A special notice of garnishment does not act to garnish wages earned by the debtor by reason of services rendered to the garnishee after the delivery of the special notice of garnishment.

(7) A special notice of garnishment issued under subsection (6) of this section shall contain a statement indicating that it is a special notice of garnishment under subsection (6) of this section and a statement reflecting the provisions of subsection (6) of this section. Notwithstanding ORS 18.854 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special notice of garnishment.

(8) Notwithstanding ORS 18.854 (1)(b), the Department of Revenue is not required to deliver a warrant or true copy of a warrant with the notice of garnishment when garnishing property of a debtor.

(9) Notwithstanding ORS 18.607 (4), a notice of garnishment issued by the Department of Revenue must include the name of the person issuing the notice on behalf of the department, but need not be signed by that person. [Formerly 18.902; 2007 c.496 §4; 2009 c.835 §7; 2013 c.405 §1]

Note: See note under 18.854.

18.857 Notice of garnishment issued by county tax collector. (1) A notice of garnishment issued by a county tax collector must name the circuit court for the county that employs the tax collector as the court whose authority is invoked.

(2) At least 15 days before any county tax collector issues a notice of garnishment, the tax collector must mail to the debtor by certified mail, return receipt requested, at the debtor's last-known address, a notification of all amounts owing to the county, a statement that further collection enforcement actions may be taken by the county to collect those amounts, and a statement that those enforcement actions may include seizing any real property owned by the debtor, imposing a lien against any real property owned by the debtor, or garnishing bank accounts, wages and other property owned by the debtor. Only one such notification shall be required and any number of garnishments may be issued after the notification is mailed.

(3) Notwithstanding ORS 18.615, a notice of garnishment issued by a county tax collector acts to garnish only that property of the debtor that is in the garnishee's possession, control or custody at the time the notice is delivered, including debts not yet due, and all wages owed by the garnishee to the debtor at the time the notice is delivered.

A notice of garnishment issued by a county tax collector does not act to garnish wages earned by the debtor by reason of services rendered to the garnishee after the delivery of the notice of garnishment.

(4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a county tax collector need not deliver a copy of the garnishee response to the clerk of the court, but must deliver the original of the response to the county tax collector.

(5) Notwithstanding ORS 18.700, a debtor who wishes to make a challenge to a notice of garnishment issued by a county tax collector must deliver the challenge in person or by first class mail to the county tax collector within the time specified by ORS 18.700 (2). Upon receiving a challenge, the county tax collector shall provide notice of the challenge in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff shall proceed as provided in ORS 18.760.

(6) Within 14 days after receipt of a challenge to a garnishment under subsection (5) of this section, the county tax collector must either:

(a) Release all property claimed as exempt from or not subject to garnishment under the challenge to the garnishment; or

(b) File with the clerk of the court a response to the challenge, attaching copies of the notice of garnishment and the garnishee response, and any supporting documentation necessary or helpful to the court in making its determination on the challenge to the garnishment. [Formerly 18.905; 2009 c.835 §8]

Note: See note under 18.854.

WRITS OF EXECUTION

(Function and Form of Writ)

18.860 Function of writ. (1) A writ of execution may direct a sheriff to:

(a) Levy on and sell real property of the judgment debtor and deliver the proceeds to the court for application against amounts owing on a money award.

(b) Levy on and sell personal property of the judgment debtor in the possession of the judgment debtor, and deliver the proceeds to the court for application against amounts owing on a money award.

(c) Levy on and deliver possession of specific real or personal property pursuant to the terms of the judgment.

(d) Levy on and sell specific real or personal property pursuant to the terms of the judgment.

(e) Levy on currency that is in the possession of the judgment debtor and deliver the currency to the court for application against amounts owing on a money award.

(2) A single writ of execution may be issued for two or more of the purposes specified in this section.

(3) A single writ of execution may be issued for two or more judgments as long as the judgments are against the same judgment debtor or debtors and are entered in the same case.

(4) An identification document, such as a driver license, passport, certified copy of a record of live birth or Social Security card, is not subject to execution and a writ of execution may not direct a sheriff to levy on an identification document except for the purpose of delivering the document pursuant to the terms of a judgment under subsection (1)(c) of this section. [2005 c.542 §1; 2007 c.166 §2; 2011 c.195 §2; 2013 c.366 §50]

18.862 Form of writ. (1) A writ of execution must be directed to a sheriff and must contain the name of the court, the names of the parties to the action and the case number for the action. The writ must contain a mailing address for the judgment creditor. The writ must describe the judgment and, if the writ of execution is issued for application of property of the judgment debtor against a money award, the writ must state the amount owing on the money award, including interest, as of the date that the request for issuance of the writ is mailed or delivered to the court administrator. The writ must also state the amount of interest accruing on the money award each day.

(2) If the judgment requires that specific real or personal property of the judgment debtor be sold, the writ must particularly describe the property and direct the sheriff to sell the specified property.

(3) If the judgment requires the delivery of the possession of real or personal property, the writ must direct the sheriff to deliver the possession of the property. The writ must particularly describe the property and specify the party to whom the property is to be delivered.

(4) Real property identified pursuant to this section must be described using a legal description and a street address, if any. [2005 c.542 §2; 2011 c.195 §6; 2011 c.429 §1]

(Issuance of Writ)

18.865 Court administrator to issue writ. (1) Except as otherwise provided by law, upon request of a judgment creditor or other prevailing party under a judgment, a court administrator shall issue a writ of execution for any judgment that includes a

money award or that requires the delivery or sale of specific real or personal property. Except as provided by ORS 18.255 and 18.867, writs of execution may be issued only by the court administrator for the court in which the judgment was entered.

(2) A court administrator may rely on the information provided by the person seeking issuance of a writ of execution and is not liable for any errors or omissions in that information. [2005 c.542 §3]

18.867 Issuance of writs for certain judgments awarding child support. (1) If support enforcement services are being provided under ORS 25.080, the administrator as defined in ORS 25.010 may issue a writ of execution for the support award portion of the judgment for which support enforcement services are being provided. A copy of the writ of execution must be filed with the circuit court of the county in which the judgment was entered or recorded. A writ of execution issued under this section must be executed by the sheriff in the same manner as a writ issued by the court administrator.

(2) The Department of Justice shall adopt an appropriate form for writs of execution under this section. The form must be substantially as set forth for writs of execution described in ORS 18.862. [Formerly 18.472]

18.868 Sheriff to whom writ is issued.

(1) If a writ of execution directs a sheriff to sell real property or tangible personal property of a judgment debtor and deliver the proceeds to the court for application against amounts owing on a money award, the writ may be issued to the sheriff of any county in this state where property of the judgment debtor to be levied on is located.

(2) If the writ of execution directs the sheriff to sell or deliver possession of specific real or tangible personal property, the writ must be issued to the sheriff of the county where the property is located.

(3) If the writ of execution directs the sheriff to sell intangible personal property and deliver the proceeds to the court for application against amounts owing on a money award, the court administrator shall issue the writ to the sheriff for the county in which the court sits.

(4) More than one writ of execution may be issued at the same time to different sheriffs for the enforcement of a single judgment. If the writ or the instructions to the sheriff direct the sale of a single, contiguous parcel of real property that is located in more than one county, and the judgment creditor has recorded copies of the writ or abstracts of the writ under ORS 18.870 in each county that contains part of the property, the sheriff for any county in which part

of the property is located may levy on and sell the entire property. If the sheriff levies on property under this subsection, the sheriff must record a copy of the notice of levy in the County Clerk Lien Record for any county not served by the sheriff. [2005 c.542 §4; 2007 c.166 §6]

18.870 Recording of writ. Upon delivery of a writ of execution to the sheriff of any county, the judgment creditor must record a copy of the writ certified to be true by the court administrator or an abstract of the writ in the County Clerk Lien Record for the county if the writ of execution or the accompanying instructions to the sheriff require the sale of real property. A legal description and a street address, if any, of the real property must be included in, or attached to, the copy of the writ or the abstract. The recording of the writ or abstract in any county in which a judgment lien does not exist under ORS 18.150 or 18.152, or in a county in which a notice of pendency under ORS 93.740 has not been previously recorded for the property to be sold, has the same effect as recording a notice of pendency under ORS 93.740. [2005 c.542 §5; 2011 c.429 §2]

(Return on Writ)

18.872 Return on writ of execution. (1)

The sheriff shall make a return on the writ of execution to the court administrator within 60 days after the sheriff receives the writ. The person that requested issuance of the writ may authorize the sheriff to continue execution under the writ and delay making a return on the writ to a date not later than 150 days after the sheriff receives the writ as long as the execution sale occurs no later than 150 days after the sheriff receives the writ. The final date for return on the writ may be extended as provided in ORS 18.932 and 18.938. For good cause shown, the court that issued the writ may extend the time for a return on the writ beyond the time provided by this subsection.

(2) The return on a writ of execution must reflect whether the sheriff levied on any property pursuant to the terms of the writ. If the sheriff did levy on property pursuant to the terms of the writ, the return must reflect the disposition made of the property by the sheriff. If any property was sold, the sheriff shall deliver the net proceeds of the sale to the court administrator with the return as required by ORS 18.950. If currency was levied on, the sheriff shall deliver the currency to the court administrator with the return.

(3) The return on a writ of execution must reflect the amount of costs of sale claimed by the judgment creditor under ORS 18.950 (2). The judgment creditor must pro-

vide the sheriff with a statement of the costs claimed on or before the date of the execution sale.

(4) The sheriff shall mail a copy of the return by first class mail to the judgment debtor and to the judgment creditor. [2005 c.542 §6]

(Instructions to Sheriff)

18.875 Instructions to sheriff. (1) The judgment creditor shall provide instructions to the sheriff with a writ of execution. The instructions must be signed by the judgment creditor or the judgment creditor's attorney. The instructions may be delivered to the sheriff after the writ is delivered to the sheriff. The instructions must include:

(a) The names and addresses of the judgment creditor and all debtors to whom notice must be given under ORS 18.888;

(b) The names and addresses of any other persons to whom notice must be given under ORS 18.918;

(c) A description of any personal property to be levied on;

(d) A street address or other description of the place where any tangible personal property may be found;

(e) A legal description for any real property or interest in real property to be levied on;

(f) A statement indicating whether any property to be levied on is residential property as defined by ORS 18.901;

(g) A statement indicating whether any condominium unit, manufactured dwelling or floating home to be levied on is inventory held for sale or lease in the regular course of business; and

(h) A statement identifying any portion of the property to be levied on that is intangible personal property, and any special instructions required to implement an order entered pursuant to ORS 18.884.

(2) If instructions to the sheriff direct the sale of tangible personal property, the judgment creditor may request in the instructions that the property not be seized by the sheriff and that the property be secured in the manner provided by ORS 18.880. The instructions may request that the property be rendered temporarily inoperable, and the manner in which the property should be rendered inoperable.

(3) If a judgment creditor seeks sale of real property under a writ of execution and the real property has a street address, the instructions to the sheriff must include the street address of the real property to be sold. If the real property is residential property that is subject to ORS 18.904, a copy of the

court order authorizing the sale, or a copy of the judgment directing sale or foreclosure of the property, must be attached to the instructions.

(4) In addition to the instructions required by this section, a sheriff may require that a judgment creditor provide all other instructions as may be necessary to allow the sheriff to levy on and to sell or deliver property pursuant to a writ of execution. [2005 c.542 §7; 2007 c.580 §1; 2011 c.195 §8]

(Levy)

18.878 Manner of levying on property.

(1) Upon receipt of a writ of execution, the sheriff shall indorse upon the writ of execution the time when the sheriff received the writ. The sheriff shall then levy on property pursuant to the writ of execution and the instructions provided to the sheriff under ORS 18.875 by doing all of the following:

(a) Filing a notice of levy with the court if real property is to be sold under the writ, or if residential property as described in ORS 18.901 (2), (3) or (4) is to be sold under the writ.

(b) Seizing any tangible personal property that the sheriff has not been instructed to secure in the manner provided by ORS 18.880.

(c) Securing any tangible personal property in the manner provided by ORS 18.880 if the sheriff has been instructed to secure the property in that manner.

(d) Filing a notice of levy with the court in the manner provided by ORS 18.884 if the sheriff has been instructed to sell intangible personal property.

(e) Securing and delivering possession of property if the writ requires that property be delivered under the writ.

(2) When a sheriff levies on personal property in any manner described in subsection (1) of this section, the interest of the judgment creditor in the personal property is the same as that of a secured creditor with an interest in the property perfected under ORS chapter 79. [2005 c.542 §8; 2007 c.166 §12]

18.880 Alternative procedure for levying on tangible personal property. (1) If a sheriff is instructed to secure tangible personal property under this section, the sheriff shall leave the property in the custody of the judgment debtor.

(2) The sheriff shall attach a notice to the property in substantially the following form:

NOTICE: This property is to be sold by the sheriff pursuant to a writ of execution.

Any person who moves this property from this place without authorization from the sheriff, who damages this property or who uses property that the sheriff has rendered inoperable without authorization from the sheriff, commits a crime and is subject to prosecution. If you have any questions, you should contact the Sheriff of _____ County. [] If this box has been checked, the sheriff has rendered the property inoperable and the property may not be used by any person without the authorization of the sheriff.

(3) A sheriff is not liable to the judgment creditor, to the judgment debtor or to any other person for any loss or damage to property that is secured in the manner provided by this section. [2005 c.542 §9]

18.882 Criminal penalty for moving, using or damaging secured property. A judgment debtor or other person commits a Class A misdemeanor if the person knows that a notice has been attached to property secured under ORS 18.880 and the person:

(1) Moves the property without authorization from the sheriff;

(2) Damages the property; or

(3) If the sheriff has rendered the property inoperable, uses the property without authorization from the sheriff. [2005 c.542 §10]

18.884 Levying on intangible personal property. (1) A sheriff shall file a notice of levy on intangible property with the court upon receiving the instructions directing the sale of intangible personal property unless the sheriff is provided with an order entered under subsection (3) of this section. The notice shall identify the nature of the property to be sold.

(2) A judgment creditor may seek an ex parte order from the court for the purpose of determining whether property to be levied on is tangible or intangible.

(3) A judgment creditor may seek an ex parte order from the court directing the manner in which intangible personal property may be secured by the sheriff. The court shall approve the order if the proposed manner of securing the property is reasonable under the circumstances. The judgment creditor must attach a copy of the order to instructions provided to the sheriff under ORS 18.875. The sheriff shall file a notice of levy with the court upon securing the property in the manner directed by the order. [2005 c.542 §11; 2007 c.166 §14]

18.886 Creditor's bond. (1) Before levying on personal property a sheriff may require that the judgment creditor file with the sheriff a good and sufficient bond or irrevocable letter of credit indemnifying the sher-

iff against any loss to the sheriff by reason of levying on or selling the property if:

(a) The sheriff has identified a specific person other than the judgment debtor who claims an interest in the property to be levied on; or

(b) The property is perishable.

(2) If a sheriff has reasonable doubt as to the ownership of personal property, or if any encumbrances are asserted against the property, the sheriff may require a bond or irrevocable letter of credit as described in subsection (1) of this section before levying on the property unless:

(a) The judgment creditor delivers to the sheriff a copy of a title document or report for the property issued by a state or federal agency that shows that the judgment debtor is the sole owner of the property; or

(b) If there is no title document for the property to be levied on, the judgment creditor delivers to the sheriff a record, prepared under ORS 79.0523 (4) by a filing office described in ORS 79.0501, showing that no financing statement or lien, or certificate or notice affecting a lien, is in effect for the property to be levied on.

(3) The sheriff may not require a bond or irrevocable letter of credit under this section if the writ of execution directs the sale or delivery of specific personal property pursuant to the terms of the judgment.

(4) A bond or irrevocable letter of credit under this section must be for double the amount of the value of the property to be levied on, as estimated by the sheriff. [2005 c.542 §12; 2007 c.166 §18]

18.887 Forcible entry for purpose of levying on personal property. (1) A sheriff may forcibly enter a structure or other enclosure for the purpose of levying on personal property only pursuant to an order issued by the court under this section.

(2) A judgment creditor may at any time file an ex parte motion requesting a court order directed to a sheriff that authorizes the sheriff to use force to enter a structure or other enclosure for the purpose of levying on personal property pursuant to a writ of execution. Except as provided in ORS 18.255, the motion must be filed with the court in which the judgment was entered. The motion must identify the specific structure or other enclosure to be entered and must contain a declaration under penalty of perjury made in the manner described by ORCP 1 E, or an unsworn declaration made in the manner described in ORS 194.800 to 194.835, if the declarant is physically outside the boundaries of the United States, that reflects facts supporting the judgment creditor's good faith belief that personal property subject to a

writ of execution is located within the structure or other enclosure.

(3) An order issued under this section shall direct the sheriff to use all force reasonably necessary to enter the structure or other enclosure and levy on personal property pursuant to a writ of execution.

(4) A judgment creditor may deliver a copy of an order issued under this section to a sheriff with a writ of execution, or at any time after a writ of execution is delivered to a sheriff. A sheriff may rely on the copy of the order in entering a structure or other enclosure for the purpose of levying on personal property pursuant to a writ of execution. [2007 c.166 §11; 2013 c.218 §10]

18.888 Notice of levy. (1) After levying on property, a sheriff shall mail or deliver a copy of the writ of execution to each judgment debtor. If the writ is issued pursuant to an in rem judgment against personal property, the sheriff shall mail or deliver a copy of the writ to the person from whom the property was seized. If the writ is issued pursuant to an in rem judgment against real property, the sheriff shall mail or deliver a copy of the writ to the occupants of the property. The sheriff shall mail the copy of the writ to the addresses included in the instructions to the sheriff. If the judgment creditor has not provided an address for a person, the sheriff need not mail a copy of the writ to the person.

(2) If the sheriff has levied on intangible property, in addition to the copy of the writ required under subsection (1) of this section, the sheriff shall mail or deliver to the persons described in subsection (1) of this section a copy of the notice of levy filed with the court pursuant to ORS 18.878 (1)(d).

(3) Unless the writ directs the sheriff to sell or deliver specific real or personal property pursuant to the terms of the judgment, in addition to the copy of the writ required under subsection (1) of this section the sheriff shall mail or deliver to each judgment debtor:

(a) A copy of the notice of levy or a statement of the date and time of the levy; and

(b) A challenge to execution form as provided by ORS 18.896. [2005 c.542 §13; 2007 c.166 §13; 2011 c.195 §10]

18.890 Debtor's bond. If a sheriff is instructed by a judgment creditor to levy on tangible personal property by seizing the property for later sale or by securing the property under ORS 18.880 for later sale, the sheriff may permit the judgment debtor to retain custody and use of all or part of the property until the sale is made if the judgment debtor files with the sheriff a good and

sufficient bond or irrevocable letter of credit indemnifying the sheriff against any loss to the sheriff by reason of failure of the judgment debtor to deliver the property at the time and place of sale. The bond or irrevocable letter of credit must be in an amount equal to twice the value of the property, as estimated by the sheriff. A sheriff is not discharged from liability to the judgment creditor for property by reason of the filing of a bond or letter of credit under this section. [2005 c.542 §14]

(Challenge to Writ of Execution)

18.892 Challenge to writ of execution.

(1) Except as provided in subsection (2) of this section, a judgment debtor may use a challenge to execution form only:

(a) To claim such exemptions under a writ of execution as are permitted by law; and

(b) To assert that the amount specified in the writ of execution as being subject to execution is greater than the amount owed by the judgment debtor under the money award.

(2) A judgment debtor may not use a challenge to execution form to challenge execution on residential property of the debtor as defined by ORS 18.901 if the judgment creditor has obtained an order under ORS 18.904 authorizing the sale or if the judgment directs the sale or delivery of specific property.

(3) Any person other than a judgment debtor who has an interest in any property levied on by a sheriff may assert that interest by delivering a challenge to execution in the manner provided by subsection (4) of this section.

(4) A person may make a challenge to a writ of execution by completing the challenge to execution form provided in ORS 18.896, or a substantially similar form, and by delivering, in person or by first class mail, the original of the completed form to the court administrator for the court identified in the writ of execution and a copy of the challenge to the judgment creditor. Upon receiving a copy of the challenge, the judgment creditor shall promptly notify the sheriff of the challenge.

(5) A challenge to execution must be delivered in the manner provided by subsection (4) of this section within 30 days after the property is levied on as described in ORS 18.878 or before the property is sold on execution, whichever occurs first. [Formerly 18.505; 2007 c.166 §8]

18.894 Notice of challenge to execution. Without unreasonable delay, a court administrator who has received a challenge to execution under ORS 18.892 shall provide

written notice of the challenge to all sheriffs for counties to which writs of execution have been issued and no return made, and to the person that requested issuance of the writ. The notice may include the notice of hearing required by ORS 18.898. [Formerly 18.508]

18.896 Challenge to execution form. (1)

The challenge to execution form described in this section does not expand or restrict the law relating to exempt property. A determination as to whether property is exempt from attachment or execution must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

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

_____ COURT
COUNTY OF _____

Plaintiff,) CHALLENGE TO
) EXECUTION
) Case No. _____
) vs.)
))

Defendant.)

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

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

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

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

I/We claim that the following described property or money is exempt from execution:

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes

most types of property that you can claim as exempt from execution):

I am a person other than the Debtor and I have the following interest in the property:

| | |
|------------------------|------------------------|
| Name _____ | Name _____ |
| Signature _____ | Signature _____ |
| Address _____ | Address _____ |
| Telephone Number _____ | Telephone Number _____ |
| (Required) | (Required) |

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

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

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

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

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

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

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

NOTICE OF EXEMPT PROPERTY

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

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

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

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

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

(b) \$218 per workweek.

(2) Social Security benefits.

(3) Supplemental Security Income (SSI).

(4) Public assistance (welfare).

(5) Unemployment benefits.

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

(7) Workers' compensation benefits.

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

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

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

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

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

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

*(14) Tools, implements, apparatus, team, harness or library that are necessary to

carry on your occupation, with a combined value not to exceed \$5,000.

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

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

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

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

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

(20) Public or private pensions.

(21) Veterans' benefits and loans.

(22) Medical assistance benefits.

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

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

(25) Federal annuities.

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

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

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

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

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

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

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

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

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

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

(33) Equitable interests in property.

Note: If two or more people in your household owe the claim or judgment, each

of them may claim the exemptions marked by an asterisk (*).

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

[Formerly 18.512; 2007 c.71 §7; 2007 c.166 §9; 2007 c.496 §§12,17; 2009 c.430 §11; 2009 c.612 §5; 2011 c.93 §3; 2011 c.228 §4; 2011 c.317 §7; 2013 c.597 §3]

18.898 Hearing on challenge to execution. (1) A challenge to execution shall be adjudicated in a summary manner at a hearing before the court with authority over the writ of execution. Upon receipt of a challenge to execution, the court administrator shall immediately set a hearing date and send notice of the hearing to the judgment debtor and the judgment creditor. The hearing shall be held as soon as possible. The sheriff may not sell any property that is described in the challenge to execution until the court has issued a decision on the challenge, and the time for making a return on the writ is suspended until the decision is made or the sale completed, whichever is later. The sheriff shall not delay sale if the judgment debtor has filed the challenge to execution in violation of ORS 18.892 (2).

(2) Hearings on a challenge to execution may be held by telecommunication devices.

(3) The judgment debtor has the burden to prove timely delivery of a challenge to execution under ORS 18.892. [Formerly 18.515]

18.899 Sanctions. A court may impose sanctions against any person who files a challenge to execution in bad faith. The sanctions a court may impose under this section are a penalty of not more than \$100 and responsibility for attorney fees under ORS 20.105. [Formerly 18.518]

18.900 [2001 c.249 §81; 2003 c.85 §23; 2003 c.578 §3; 2003 c.663 §3; 2005 c.336 §3; renumbered 18.854 in 2005]

EXECUTION SALE

(Residential Property)

18.901 Definition of residential property. For the purposes of this section and ORS 18.904, 18.906, 18.908 and 18.912, "residential property" means any of the following property:

(1) Real property on which no more than four units designed to be used as dwellings are located.

(2) A condominium unit that is designed to be used as a dwelling and that is not being held as inventory for sale or lease in the regular course of business.

(3) A manufactured dwelling as defined by ORS 446.003 that is not being held as inventory for sale or lease in the regular course of business.

(4) A floating home as defined in ORS 830.700 that is not being held as inventory for sale or lease in the regular course of business. [2005 c.542 §15]

18.902 [2001 c.249 §§82,82a; 2002 s.s.3 c.7 §2; 2003 c.75 §22; renumbered 18.855 in 2005]

18.904 Order required for sale of residential property; exceptions. (1) If the judgment debtor is a natural person, residential property may be sold under a writ of execution only after the entry of a court order authorizing the sale.

(2) This section does not apply to writs of execution that direct the sheriff to sell specific property pursuant to the terms of the judgment.

(3) This section does not apply to a writ of execution issued to enforce a judgment foreclosing:

(a) A construction lien for work, labor or material done or furnished exclusively for the improvement of the property to be sold;

(b) A lawfully executed purchase money lien against the property to be sold; or

(c) A lawfully executed mortgage or trust deed on the property to be sold. [2005 c.542 §16]

18.905 [2001 c.249 §83; renumbered 18.857 in 2005]

18.906 Motion for order authorizing sale of residential property. (1) A judgment creditor may file a motion with a court requesting an order authorizing the sheriff to sell residential property. The motion must be filed with a court that has authority to issue a writ of execution for the judgment. The motion must include a statement that does all of the following:

(a) Indicates the amount of the money award or money awards, as reflected in the judgment or judgments.

(b) Indicates the amount owing on the money award or money awards on the date the motion is filed.

(c) Indicates whether any of the money awards arise out of an order or judgment for child support as described in ORS 18.398.

(d) Identifies the residential property to be sold by legal description and by street address, if any.

(e) Indicates whether the property is a homestead. If the property is a homestead, the motion must allege facts showing that the homestead may be sold on execution.

(2) A motion under this section must be accompanied by an affidavit disclosing the basis of the allegations contained in the motion. If the judgment creditor relies on more than one judgment to support the order, the motion must be accompanied by copies of all other judgments on which the judgment creditor relies.

(3) A court shall promptly schedule a hearing on a motion filed under this section. In setting the hearing the court shall allow adequate time to allow service on the judgment debtor under ORS 18.908. [2005 c.542 §17; 2011 c.429 §3]

18.908 Notice of motion for order authorizing sale of residential property. (1) At least 10 days before the hearing on a motion filed under ORS 18.906, the judgment creditor must:

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

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

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

**NOTICE OF HEARING ON SHERIFF'S
SALE OF YOUR PROPERTY**

This is to notify you that _____ has asked the court to order the sheriff to sell property located at _____ to satisfy a judgment against _____.

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

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

The law provides that if the property is your homestead, then \$_____ of its value may not be taken to satisfy a judgment against you. In addition, a homestead usually may not be sold to satisfy a judgment for \$3,000 or less.

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

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

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

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

[2005 c.542 §18; 2009 c.612 §7]

18.910 [Formerly 29.367; 2003 c.576 §572a; 2005 c.542 §67; 2005 c.702 §95; renumbered 18.999 in 2005]

18.912 Hearing on motion for order authorizing sale of residential property.

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

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

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

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

(c) That the amount of the judgment or judgments was \$3,000 or less at the time of entry of the judgment or judgments as described in ORS 18.395 (7).

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

(4) If the court authorizes the sale of residential property, the judgment creditor may recover the costs of service of the motion and notice under ORS 18.908 as part of the costs of the sale. [2005 c.542 §19; 2009 c.612 §8]

(Notice of Sale)

18.918 Person entitled to written notice of sale. (1) A judgment creditor must list in the instructions required by ORS 18.875 the names and addresses of all persons entitled to written notice of the execution sale. For each person listed, the list must include the address last known to the judgment creditor. For all execution sales, the list must include:

(a) The name of the judgment debtor; and

(b) The name of any attorney for a judgment debtor reflected in the judgment document.

(2) If real property is to be sold in the execution sale, the list prepared by the judgment creditor under this section must include the name of each person with one of the following interests in the real property, determined as of a date that is identified by the judgment creditor and that is not more than 10 days before the request for issuance of the writ of execution was filed:

(a) Any person who has a lien of record against the property that attached to the property after the judgment lien attached and before the determination date identified by the judgment creditor.

(b) Any person who has an interest in the property that was acquired from the debtor or any successor to the debtor, and that was recorded after the judgment lien attached and before the determination date identified by the judgment creditor.

(3) Subsection (2) of this section does not apply to a writ of execution requiring the sale of specific real property identified in a judgment of foreclosure or any other judgment directing the sale of specific real property. If a writ of execution is issued pursuant to a judgment in an in rem proceeding, a judgment of foreclosure or another judgment directing the sale of the specific real property, the list prepared by the judgment creditor under this section must contain the names and last known addresses of the persons who were parties to the action at the time of judgment in lieu of the names required under subsection (2) of this section.

(4) Failure to include the name of a person required to be listed under this section does not affect the validity of an execution sale or in any way give that person any right to challenge the sale of the property. By submitting the instructions to the sheriff, a judgment creditor certifies that the list of persons reflected in the instructions complies with this section, and the failure to include the name of any person as required by this section is subject to sanction under ORCP 17. [2005 c.542 §20]

18.920 Notice of sale of personal property. (1) Before conducting an execution sale of personal property, a sheriff shall give written notice of the sale in the manner provided by this section. The notice must identify the property to be sold and the time and place of the sale.

(2) Before any execution sale of personal property, the sheriff shall:

(a) Mail copies of the notice of sale by first class mail and by certified mail, return

receipt requested, to the judgment debtor at the address provided in the instructions to the sheriff; and

(b) Mail a copy of the notice of sale by first class mail to any attorney for the judgment debtor identified in the instructions at the address provided in the instructions to the sheriff.

(3) The notices required by subsection (2) of this section must be mailed not less than 10 days before an execution sale is conducted.

(4) The sheriff shall post a notice of the sale in three public places in the county in which the sale is to take place. The notice must be posted not more than 20 days before the date of sale identified in the notice of sale and not less than 10 days before that date.

(5) In lieu of posting notice under subsection (4) of this section, a sheriff shall give notice of an execution sale by Internet posting if the judgment creditor requests that posting in the instructions given to the sheriff under ORS 18.875 and a website has been established under ORS 18.926 for the purpose of giving legal notices under ORS 18.860 to 18.993. Subject to ORS 18.926 (3), the notice must be posted on the Internet not less than 10 days before the date identified in the notice of sale and remain posted until that date. [2005 c.542 §21; 2009 c.835 §5]

18.922 Expedited sale of perishable personal property; expedited sale to prevent loss of value. (1) Notwithstanding ORS 18.920, if perishable personal property is levied on by a sheriff:

(a) The notices required by ORS 18.920 (2) must be mailed by express mail not less than 48 hours before the execution sale is conducted; and

(b) The sheriff shall post notice of the sale in the manner required by ORS 18.920 (4) or (5) not less than 48 hours before the execution sale is conducted.

(2) In lieu of conducting an expedited sale under subsection (1) of this section, a judgment creditor or a sheriff may seek an ex parte order from the court directing the manner of conducting an expedited sale to prevent loss of value. An order issued under this section may modify or eliminate any of the requirements of ORS 18.920. If an ex parte order is entered under this subsection at the request of the judgment creditor, the judgment creditor must provide a copy of the order to the sheriff. [2005 c.542 §22]

18.924 Notice of sale of real property. (1) Before conducting an execution sale of real property, a sheriff shall:

(a) Post notice of the sale on the website established under ORS 18.926 for at least 28 days; and

(b) Publish notice of the sale in a newspaper, as defined in ORS 193.010, in the county where the real property is located once a week for four successive weeks.

(2) The notice posted on the website and published in the newspaper under subsection (1) of this section must include:

(a) The names of the parties subject to the writ of execution;

(b) The street address of the property or, if there is no street address, the tax lot number of the property; and

(c) The date, time and place of the execution sale.

(3) In addition to the information listed in subsection (2) of this section, the notice posted on the website under subsection (1) of this section must include:

(a) The legal description of the property; and

(b) The following notice:

Before bidding at the sale, a prospective bidder should independently investigate:

(a) The priority of the lien or interest of the judgment creditor;

(b) Land use laws and regulations applicable to the property;

(c) Approved uses for the property;

(d) Limits on farming or forest practices on the property;

(e) Rights of neighboring property owners; and

(f) Environmental laws and regulations that affect the property.

(4) In addition to the information listed in subsection (2) of this section, a notice published in the newspaper under subsection (1) of this section must include instructions for locating the information posted on the website under subsection (1) of this section.

(5) The sheriff is not required to post or publish the notice of sale of real property under this section until the judgment creditor provides the sheriff with all of the information required under subsections (2) and (3) of this section.

(6) Before any execution sale of real property, the sheriff shall:

(a) Mail copies of the notice of sale posted on the website under subsection (1) of this section by first class mail and by certified mail, return receipt requested, to the

judgment debtor at the address provided in the instructions to the sheriff;

(b) Mail a copy of the notice of sale posted on the website under subsection (1) of this section by first class mail to any attorney for the judgment debtor identified in the instructions at the address provided in the instructions; and

(c) Mail a copy of the notice of sale posted on the website under subsection (1) of this section by first class mail to any other person listed in the instructions pursuant to ORS 18.918 at the address provided in the instructions.

(7) The notices required by subsection (6) of this section must be mailed not less than 28 days before an execution sale is conducted.

(8) Before any execution sale of real property for which the judgment creditor has provided a street address under ORS 18.875 (3), the sheriff shall post the notice of the sale posted on the website under subsection (1) of this section in a conspicuous place on the property. The notice must be posted not more than seven days after the sheriff mails notices as required by subsection (6) of this section. [2005 c.542 §23; 2009 c.835 §6; 2011 c.195 §11; 2011 c.429 §4; 2013 c.464 §1]

18.926 Legal notices website; posting fee. (1) The elected sheriffs of this state shall establish and maintain a website where legal notices under ORS 18.860 to 18.993 may be posted. The sheriffs may enter into an intergovernmental agreement for establishing and maintaining the website.

(2) An intergovernmental agreement entered into under this section may establish fees for posting legal notices on a website maintained under this section.

(3) For the purpose of determining whether a legal notice has been posted for the period of time required by law, an interruption of service of a website maintained under this section that does not exceed 48 hours does not affect the continuity of the posting. An interruption of service of a website maintained under this section does not prevent the sheriff from conducting an execution sale unless the court orders otherwise. [2005 c.542 §24; 2009 c.835 §4; 2011 c.195 §13; 2013 c.464 §2]

(Conduct of Execution Sale)

18.930 Conduct of sale generally; county fee. (1) The sheriff shall conduct an execution sale by public oral auction. The sale must be conducted between 9 a.m. and 4 p.m. All property shall be sold by the sheriff in such parcels as are likely to bring the highest price. Any portion of real property belonging to a person other than the

judgment debtor must be sold separately if the person requests a separate sale.

(2) At least 10 days before the date first set for an execution sale, a judgment creditor must provide the sheriff with any report for real property to be sold at the execution sale that is in the possession of the judgment creditor and that shows interests of record in the property. The sheriff shall make the report available to bidders who appear at the sale. No civil action may be brought against a title company, the judgment creditor, the sheriff or any other person by reason of omissions or errors in the report, and the validity of the sale is not affected by reason of any omissions or errors in the report.

(3) A judgment creditor that is a public body, as defined in ORS 174.109, may set a minimum bid amount for property to be sold at an execution sale.

(4) Tangible personal property to be sold at an execution sale must be present at the place where the sale is conducted unless the property is not in the possession of the sheriff.

(5) The county may establish a fee to be collected by the sheriff at the time of sale. The amount of the fee shall be established by the governing body of the county and may not be greater than the amount necessary to pay the county for the expenses incurred by the county for giving notice of the sale and conducting the sale and for the anticipated expenses for any notices required to be given after the sale and other post-sale administration of the sale.

(6) A person who purchases real property that is subject to redemption at an execution sale must provide the sheriff with an address to which a redemption notice may be sent and must notify the sheriff of any change in address until the purchaser transfers the purchaser's interest in the property, the property is redeemed or the time allowed for redemption expires, whichever occurs first. Any person who thereafter acquires the purchaser's interest in the property must notify the sheriff of the transfer, provide the sheriff with an address to which a redemption notice may be sent and notify the sheriff of any change in address until there is another transfer, the property is redeemed or the time allowed for redemption expires, whichever occurs first.

(7) At any time before the sheriff conducts an execution sale for personal property, the judgment debtor may pay to the sheriff the full amount owing on the judgment as of the date the payment is made along with the costs of sale as described in ORS 18.950 (2). The payment must be made in United States currency. If payment is made under this subsection, the sheriff may

not sell the property, and shall deliver the property to the debtor. The sheriff shall deliver the amount paid by the judgment debtor to the court administrator with the sheriff's return on the writ. The sheriff is not liable to any person by reason of accepting payment under the provisions of this subsection. [2005 c.542 §25; 2007 c.580 §2; 2011 c.195 §14]

18.932 Postponement of sale; rules. (1) A sheriff may postpone an execution sale to a specified date if:

(a) The sheriff is unable to conduct the sale at the place and time specified in the notice of the sale;

(b) The sheriff considers it appropriate to postpone the sale for want of purchasers; or

(c) For other sufficient cause.

(2) A sheriff shall postpone an execution sale to a specified date upon the request of a judgment creditor. The sheriff may not postpone the execution sale to a date later than the final date for return on the writ of execution under ORS 18.872.

(3) If possible, the sheriff shall make a public announcement of a postponement at the time and place scheduled for the sale.

(4) An execution sale may be postponed more than one time under the provisions of this section. An execution sale may not be postponed beyond the date that a return on the writ is due. If the judgment creditor requests a postponement to a specified date, and the date is more than 60 days after the sheriff received the writ, the request for a postponement of the sale automatically operates as a request for an extension of the time for a return on the writ of execution under ORS 18.872 (1), and the return on the writ is due three business days after the date specified by the judgment creditor for the sale.

(5) The sheriff need not give additional notice of sale in the manner provided by ORS 18.918, 18.920, 18.922 or 18.924 by reason of a postponement. The State Court Administrator by rule may establish procedures for giving notice of a postponement by a posting on a website maintained under ORS 18.926. [2005 c.542 §26]

18.934 Amount of property to be sold; sheriff and deputies may not purchase.

At an execution sale, the sheriff shall sell only the property necessary to satisfy the judgment. A sheriff conducting an execution sale and deputies of the sheriff may not purchase property at the sale or acquire any interest in property by reason of the sale. [2005 c.542 §27]

18.936 Bid by judgment creditor. (1)

The judgment creditor who requested issuance of the writ of execution may make oral bids for property to be sold at an execution sale. If the oral bid of the judgment creditor

is the highest bid, the judgment creditor need not make any payment to the sheriff other than for:

(a) Any unpaid sheriff's fees for the execution sale;

(b) The amount of an exemption claimed by the debtor that the judgment creditor agrees to or that a court has determined applies to the property; and

(c) Any amount bid by the judgment creditor that exceeds the full amount owing on the money award, calculated as of the date that the sale is to be conducted, plus the costs of the sale as described in ORS 18.950 (2) that have been paid by the judgment creditor.

(2) The judgment creditor who requested issuance of the writ of execution may submit a written bid for property to be sold in an execution sale before the sale is conducted. A bid under this subsection may not be for more than the full amount owing on the money award, calculated as of the date that the sale is to be conducted, plus the costs of the sale that are recoverable by the judgment creditor as described in ORS 18.950 (2). A bid under this subsection must be received by the sheriff not less than 48 hours before the sale is conducted. The sheriff may rely on the judgment creditor's calculation of the amount due under the money award and for the costs of sale, and is not required to make a separate calculation. If the written bid of the judgment creditor is the highest bid, the judgment creditor need not make any payment to the sheriff other than for:

(a) Any unpaid sheriff's fees for the execution sale; and

(b) The amount of an exemption claimed by the debtor that the judgment creditor agrees to or that a court has determined applies to the property.

(3) A judgment creditor who makes a bid under subsection (2) of this section may instruct the sheriff to accept any bid that matches the amount of the bid made by the judgment creditor.

(4) A written bid under subsection (2) of this section is irrevocable, but the judgment creditor who submits the written bid may make an oral bid at the time of the sale that is higher than the written bid.

(5) A judgment creditor who makes a bid under this section must notify the sheriff of any amounts included in the bid that are attributable to costs of sale under ORS 18.950 (2). [2005 c.542 §28; 2007 c.166 §7; 2011 c.195 §16]

18.938 Manner of payment. (1) Except as provided in this section, a sheriff shall accept as payment from a purchaser of real property at an execution sale a cashier's

check or cash. Except as provided in this section, a sheriff shall accept any combination of cashier's checks or cash that is adequate to pay the purchase price.

(2) A sheriff shall accept a cashier's check as payment from a purchaser at an execution sale only if the cashier's check is made payable to the sheriff and is drawn on a financial institution that is authorized to do business under the laws of Oregon or the United States.

(3) If any part of the purchase price at an execution sale is paid with a cashier's check, the sheriff shall give the purchaser a receipt for the funds in lieu of a certificate of sale under ORS 18.942. The receipt must state that the purchaser is the successful bidder and must describe the property sold.

(4) If any part of the purchase price at an execution sale is paid with a cashier's check, the sheriff shall deposit the check in a financial institution not later than the end of the first business day after the day on which the sale is conducted. The check must be deposited in a separate account.

(5) If the sheriff receives verification from a financial institution within 15 days after the date of the execution sale that all cashier's checks delivered to the sheriff for a purchase have received final settlement, the sale is effective as of the date and hour of the sale, and the purchaser has priority over any interest acquired in the real property after that time. The sheriff shall thereafter:

(a) Mail to the purchaser by first class mail a certificate of sale as provided under ORS 18.942 for all real property purchased; and

(b) Deliver the net proceeds of the sale to the court administrator or other official as provided by law.

(6) Subject to subsection (8) of this section, if the sheriff does not receive verification from a financial institution within 15 days after the date of the sale that all cashier's checks delivered to the sheriff for a purchase have received final settlement, the sale is void and the sheriff shall return to the purchaser any cash tendered by the purchaser and any amounts received for cashier's checks for which final settlement was received, less any bank charges incurred for cashier's checks and any other amount allowed by law.

(7) If any part of the purchase price at an execution sale is paid with a cashier's check, and the return date for the writ that is the basis for the sale is less than 18 days after the date of the sale, the return date is automatically extended to 18 days after the date of the sale.

(8) The judgment creditor may extend by a period of not more than 60 days the time for the sheriff to receive verification of a cashier's check provided for in subsections (5) and (6) of this section. If the judgment creditor extends the time for the sheriff to receive verification of a cashier's check, the return date for the writ is automatically extended three business days after the date specified by the judgment creditor.

(9) A judgment creditor may elect to pursue remedies under ORS chapter 73 by reason of the failure of a financial institution to honor a cashier's check tendered under this section, as though the judgment creditor had been the person to whom the check was payable.

(10) As used in this section:

(a) "Cashier's check" has the meaning given that term in ORS 73.0104.

(b) "Financial institution" has the meaning given that term in ORS 706.008. [2005 c.542 §29]

18.940 Bill of sale for personal property. (1) If a sheriff sells personal property at an execution sale, upon receipt of the purchase money the sheriff shall give a bill of sale to the purchaser for any intangible property or other property not in the possession of the sheriff. The sheriff shall deliver personal property in the possession of the sheriff to the purchaser, but shall give the purchaser a bill of sale for that property only if the purchaser requests it.

(2) If the sheriff has secured property in the manner provided by ORS 18.880 and the judgment debtor refuses to make the property available to the purchaser, without further court order the sheriff shall use all reasonable force necessary to allow the purchaser to access the property at the place where the property was located when the sheriff secured the property. [2005 c.542 §30]

18.942 Sheriff's certificate of sale for real property. (1) If a sheriff sells real property at an execution sale, the sheriff shall prepare a certificate of sale containing a particular description of the property sold, the price bid for each distinct lot or parcel and the total amount paid. The certificate must state whether the property is subject to redemption. Except as provided in ORS 18.938 (3), the sheriff shall give the certificate to the purchaser.

(2) A purchaser may record in the County Clerk Lien Record the sheriff's certificate of sale provided to the purchaser under the provisions of this section. [2005 c.542 §31]

18.944 Notice of completed sale. (1) After the execution sale of any residential property as defined in ORS 18.901 that is subject to redemption and not later than 30 days after the purchaser is given the certificate of sale, the sheriff shall:

(a) Securely attach to the main entrance of any dwelling unit upon the property a written notice stating that the property has been sold; and

(b) Send a copy of the notice described in paragraph (a) of this subsection by first class mail and by registered or certified mail to the judgment debtor.

(2) The notice required by subsection (1)(a) of this section shall be in substantially the following form:

YOUR PROPERTY HAS BEEN SOLD

Your property located at _____ has been sold. The property was sold on _____, 2____, to satisfy a court judgment against you. The purchaser's name and address are _____. The purchaser paid _____ for your property.

You may have the right to buy back the property from the purchaser by paying the purchaser the amount paid at the sale plus taxes, expenses and interest. **YOU WILL LOSE THE RIGHT TO BUY BACK YOUR PROPERTY ON _____, 2____.** If you do not buy back your property, the sheriff will give a deed for your property to the purchaser on that date.

The law on the rights of a person whose property is sold to satisfy a court judgment is found in ORS 18.960 to 18.985. You must follow exactly the instructions provided there.

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

(3) The sheriff shall retain the return receipt for a notice sent by registered or certified mail as provided in subsection (1)(b) of this section and shall make and retain a record of the posting of notice required by subsection (1)(a) of this section.

(4) Failure of the sheriff to comply with any provision of this section does not affect the validity of the sale of residential property. However, this subsection does not limit any other right the judgment debtor may have. [2005 c.542 §32]

18.946 Possession after sale; right to rents or value of use. (1) Subject to subsection (2) of this section, the purchaser of real property at an execution sale is entitled to possession of the property from the date

of sale until a redemption of the property, if any. Subject to subsection (2) of this section, the redemptioner of real property is entitled to possession of the property from the date the payment required by ORS 18.966 or 18.967 is made until another redemption, if any.

(2) If property sold on execution or redeemed is in the possession of a tenant who holds the property at the time of the sale under an unexpired lease that has a priority that is inferior to the claim of the judgment creditor, the lessee has the right to remain in possession of the property until expiration of the period allowed for redemption if the lessee makes the lease payments to the purchaser or redemptioner, or pays to the purchaser or redemptioner a monthly payment equal to the value of the use and occupancy of the property, whichever amount is greater. [2005 c.542 §33]

18.948 Confirmation of sale of real property. (1) A sale of real property in an execution sale is conclusively established to have been conducted in the manner required by ORS 18.860 to 18.993 unless the judgment debtor or another person adversely affected by the sale files an objection to the sale no later than 10 days after the filing of the sheriff's return under ORS 18.872.

(2) If an objection to a sale is filed, the court shall schedule a hearing on the objection. The court shall grant an order confirming the sale unless the person objecting to the sale establishes that the sale was not conducted in a manner that substantially conformed with the manner required by law, and that as a result it was probable that the person suffered damage. An order confirming a sale under this subsection conclusively establishes that the sale was conducted in the manner required by ORS 18.860 to 18.993. If the court sustains the objection, the court shall direct that the property be resold. Notwithstanding any other provision of ORS 18.860 to 18.993, the court may establish timelines for the conduct of the second sale and the return by the sheriff upon completion of the second sale.

(3) If the court orders that real property be resold under this section, the sheriff may not accept any bid in the second sale that is less than the amount paid in the first sale. If no higher bid is received in the second sale, the sheriff shall so indicate in the sheriff's return to the court. If a higher bid is received at the second sale, upon receipt of the proceeds the court administrator shall return to the first purchaser the amounts paid by the purchaser. If the original purchaser makes the highest bid in the second sale, the purchaser need pay to the sheriff only the difference between the bid in the

second sale and the amounts already paid by the purchaser. [2005 c.542 §34]

18.950 Delivery and distribution of proceeds. (1) After the deduction of all sheriff's fees and costs allowed by law that have not been paid by the judgment creditor, and deduction of all other amounts required by law, the sheriff shall deliver all net proceeds from an execution sale to the court administrator with the sheriff's return on the writ. The court shall enter an order of distribution for the proceeds. An order directing distribution to the judgment creditor may be entered ex parte.

(2) A judgment creditor is entitled to recover from the proceeds of the sale all of the following costs of sale paid by the judgment creditor:

- (a) Sheriff's fees;
- (b) The cost of any title report required to determine persons entitled to notice under ORS 18.918 (2);
- (c) The cost of any indemnity bond or letter of credit required by ORS 18.886;
- (d) Amounts that may be recovered by the judgment creditor under ORS 18.999;
- (e) Services fees that may be recovered as costs under ORS 18.912; and
- (f) Recording fees incurred pursuant to ORS 18.870.

(3) The court shall order that the costs specified in subsection (2) of this section be paid before application of the remaining proceeds to satisfaction of the judgment.

(4) If any proceeds from an execution sale remain after the payment of costs under subsection (3) of this section and satisfaction of the judgment, the court administrator shall pay the remaining proceeds as directed by the court in the order of distribution. [2005 c.542 §35; 2007 c.166 §19]

18.952 Effect of sale on judgment debtor's or mortgagor's title; effect of redemption by judgment debtor or mortgagor. (1) The title of a judgment debtor or mortgagor to real property that is subject to redemption under ORS 18.960 to 18.985 is not transferred by the sale of the property at an execution sale. If a judgment debtor or mortgagor, or a successor in interest to a judgment debtor or mortgagor, redeems property sold at an execution sale, the right to possession of the property is restored subject to all liens of record, whether arising before, on or after the sale, as though the sale had never occurred.

(2) If a judgment debtor or mortgagor, or a successor in interest to a judgment debtor or mortgagor, redeems property sold at an execution sale, the property may not be redeemed by any other person. The sheriff shall

provide the redemptioner with a certificate of redemption. A certificate of redemption may be recorded in the County Clerk Lien Record for the county in which the property is located. [2005 c.542 §36]

18.954 Conduct of sale pursuant to court rule or terms of order or judgment. A court, by the terms of a judgment or order, may direct that an execution sale under a specific judgment be conducted in a manner different than the manner specified by ORS 18.860 to 18.993. The Chief Justice of the Supreme Court may by court rule provide that execution sales be conducted in a manner different than the manner specified by ORS 18.860 to 18.993. [2005 c.542 §37]

(Redemption)

18.960 Definitions. As used in ORS 18.960 to 18.985:

(1) "Certificate holder" means a person who holds a certificate of sale issued under ORS 18.942 or who holds a certificate of redemption issued under ORS 18.975.

(2) "Claimant" means a person who claims to have a right to redeem under ORS 18.960 to 18.985.

(3) "Land sale contract" means a contract for the transfer or conveyance of an interest in real property. "Land sale contract" does not include earnest money agreements, preliminary sales agreements, options or rights of first refusal.

(4) "Redemptioner" means a person other than a judgment debtor who has redeemed property under ORS 18.960 to 18.985.

(5) "Redemption notice" means a notice described under ORS 18.970. [2005 c.542 §37a]

18.962 Property that may be redeemed. (1) All real property sold at an execution sale may be redeemed except for a leasehold interest with an unexpired term of less than two years.

(2) A manufactured dwelling, as defined by ORS 446.003, may be redeemed only if the manufactured dwelling is sold together with the real property on which the manufactured dwelling is located.

(3) The right of a seller to receive payments under a land sale contract that is sold with the real property may be redeemed.

(4) Except as provided in ORS 18.987 (3), a purchaser's interest in a land sale contract may be redeemed. [2005 c.542 §38]

18.963 Who may redeem. (1) Subject to subsection (3) of this section, property that is described in ORS 18.962 and that is sold at an execution sale may be redeemed by:

(a) The judgment debtor;

(b) A mortgagor whose interest in the property was sold at the execution sale;

(c) Any person with a lien against the property that has a priority that is inferior to the claim of the judgment creditor; or

(d) The successor in interest of any person described in paragraph (a), (b) or (c) of this subsection.

(2) Subject to subsection (3) of this section, for the purposes of ORS 18.960 to 18.985:

(a) All references to a judgment debtor include a mortgagor whose interest in the property that was sold at the execution sale and any successor in interest to such a mortgagor;

(b) All references to a judgment debtor include a successor in interest to a judgment debtor; and

(c) A person described in subsection (1)(c) of this section, and any successor in interest of that person, is a lien claimant.

(3) Any person described in subsection (1) of this section who conveys all of the person's interest in property sold on execution to a successor in interest may not redeem the property. [2005 c.542 §39]

18.964 Time for redemption. (1) Except as otherwise provided in ORS 18.960 to 18.985, the ability of a judgment debtor to redeem property sold at an execution sale expires unless the judgment debtor redeems the property within 180 days after the date of sale.

(2) Except as provided in subsection (3) of this section, the ability of a lien claimant to redeem property sold at an execution sale expires unless the lien claimant redeems the property within 60 days after the date of sale.

(3) If any lien claimant redeems property within the time provided by subsection (2) of this section, any other lien claimant may redeem the property from the redemptioner. The subsequent redemption must be made within 60 days after the redemption amount specified in ORS 18.966 or 18.967 is paid to the sheriff. Other lien claimants may thereafter redeem from a preceding redemptioner, in the same manner, as long as each redemption is made within 60 days after the previous redemption. [2005 c.542 §40]

18.966 Redemption amount payable to purchaser. Subject to ORS 18.968, a claimant may redeem property from the purchaser at an execution sale by paying to the sheriff:

(1) The amount paid by the purchaser at the execution sale, with interest on that amount at the rate of nine percent per annum from the date of sale;

(2) The amount of any taxes the purchaser has paid on the property, with interest at the rate of nine percent per annum from the date of payment;

(3) Any amounts necessarily expended by the purchaser to prevent waste, with interest at the rate of nine percent per annum from the date of payment; and

(4) Any amounts that the purchaser has paid on liens superior to the interest of the purchaser, with interest at the rate of nine percent per annum from the date of payment. [2005 c.542 §41]

18.967 Redemption amount payable to redemptioner. Subject to ORS 18.968, a claimant may redeem property from a redemptioner by paying to the sheriff:

(1) The amount paid by the redemptioner, with interest on that amount at the rate of nine percent per annum from the date of payment;

(2) The amount owing on the lien of the redemptioner, unless the payment is made by a lien claimant and the lien claimant has a lien that has a priority that is superior to the lien of the redemptioner;

(3) The amount of any taxes the redemptioner has paid on the property, with interest at the rate of nine percent per annum from the date of payment;

(4) Any amounts necessarily expended by the redemptioner to prevent waste, with interest at the rate of nine percent per annum from the date of payment; and

(5) Any amounts that the redemptioner has paid on liens superior to the lien of the redemptioner, with interest at the rate of nine percent per annum from the date of payment. [2005 c.542 §42]

18.968 Setoff for rents, income and profits realized by certificate holder; certificate holder's lien for crops and amounts expended to prevent waste. (1) A judgment debtor is entitled to a setoff against the amounts required to redeem property sold at an execution sale for all rents, income and profits realized by the certificate holder from the property.

(2) If the real property sold at an execution sale is farmland, the certificate holder has a lien on the first crops sown or grown after the sale and for all sums reasonably expended by the certificate holder in plowing, cultivating or seeding the property. The lien of the certificate holder is superior to all other liens except the liens provided by law for payment of wages for work in cultivating the land or harvesting the crops grown on the property. If the real property is not farmland, the certificate holder has a lien on the profits accruing from the prop-

erty during the period that the certificate holder held the land for sums necessarily expended by the certificate holder to prevent waste. [2005 c.542 §43]

18.970 Redemption notice. (1) A claimant who wishes to redeem property must serve the certificate holder with a redemption notice. The notice must specify a date and approximate time when the claimant will make payment to the sheriff, the redemption amount calculated by the claimant and the manner in which the redemption amount was calculated. The notice must include a mailing address for the claimant. The date of the redemption must be a weekday that is not a legal holiday. The time of the redemption must be between the hours of 9 a.m. and 4 p.m. The notice must inform the certificate holder if an accounting under ORS 18.980 is required.

(2) If the claimant is a lien claimant, the notice must reflect the nature of the lien claimant's interest and the claimant shall attach to the notice copies of any documents necessary to establish that interest. If the claimant is a successor in interest to another person with redemption rights under ORS 18.963, the claimant shall attach to the notice copies of any documents necessary to establish how the person acquired the interest. If the claimant claims to have an interest with a priority that is superior to the interest of the certificate holder, the claimant shall attach to the notice copies of any documents necessary to establish that priority.

(3) A redemption notice must be served by personal service or by first class mail. If the notice is served by first class mail, service is effective on mailing. A copy of the notice may be filed with the sheriff before the notice is given to the certificate holder, but must be filed with the sheriff no later than seven days before the redemption date specified in the notice. The notice must be served on the certificate holder not more than 30 days before the payment date specified in the redemption notice, and:

(a) Not less than 14 days before the payment date specified in the notice, if service is made by first class mail; or

(b) Not less than seven days before the payment date specified in the notice, if personal service is made.

(4) A claimant shall submit proof of service of the notice required by this section at the time the claimant pays the sheriff under ORS 18.975.

(5) If a certificate holder fails to comply with the requirements of ORS 18.930 (6) or 18.982, the certificate holder may not object to a redemption by reason of failure to re-

ceive a redemption notice. [2005 c.542 §44a; 2007 c.580 §3]

18.971 Objection to redemption notice.

(1) A certificate holder may object to a redemption notice if the certificate holder asserts that the claimant is not eligible to redeem. An objection under this section must be filed with the court administrator, filed with the sheriff and mailed by first class mail to the claimant before the payment date specified in the notice.

(2) The filing of an objection under this section does not affect the requirement of payment of the redemption amount specified in the redemption notice under ORS 18.975. [2005 c.542 §44b]

18.972 Response to redemption notice.

(1) A certificate holder shall respond to a redemption notice if:

(a) The notice requests an accounting under ORS 18.980; or

(b) The certificate holder objects to the redemption amount specified in the notice.

(2) A response to a redemption notice must be served by personal service or by first class mail. If the response is served by first class mail, service is effective on mailing. A copy of the response may be filed with the sheriff before the response is given to the claimant, but must be filed with the sheriff before the payment date specified in the notice. The response must be served on the claimant before the payment date specified in the notice.

(3) If the redemption notice requests an accounting, the accounting must be attached to the response given under this section.

(4) If the certificate holder objects to the redemption amount specified in the notice because the certificate holder claims additional amounts are owing under ORS 18.966 or 18.967, the response must include all information specified in ORS 18.980 (1)(a) to (d).

(5) A response filed under this section must include a statement of the amount claimed as the proper redemption amount after deductions or additions by reason of any accounting provided with the response or by reason of additional amounts claimed under subsection (4) of this section. [2005 c.542 §44c]

18.973 Objection to response.

(1) A claimant may object to the amount claimed in the response as the proper redemption amount. An objection under this section must be filed with the court administrator and mailed by first class mail to the certificate holder within seven days after the response is served under ORS 18.972.

(2) The filing of an objection under this section does not affect the requirement of

payment of the redemption amount specified in the redemption notice under ORS 18.975. Payment of the amount claimed in the response waives any objection filed under this section unless the claimant delivers a copy of the objection to the sheriff with the payment. [2005 c.542 §44d]

18.975 Payment of redemption amount.

(1) Except as provided in ORS 18.980 (2) and (4), unless a certificate holder has indicated a lower redemption amount in the certificate holder's response under ORS 18.972, a claimant shall pay the sheriff at least the redemption amount specified in the notice on or before the payment date specified in the redemption notice. If the claimant does not make payment as required by this subsection, the redemption notice is of no effect.

(2) The sheriff shall issue to the claimant who makes payment under this section a certificate of redemption on the payment date specified in the redemption notice unless:

(a) Before the payment date specified in the notice, an objection is filed with the sheriff in the manner required by ORS 18.971;

(b) Before the payment date specified in the notice, a response is filed with the sheriff in the manner required by ORS 18.972, and the claimant fails to pay additional amounts claimed in the response on the payment date specified in the notice;

(c) An objection to a response is delivered to the sheriff with the payment in the manner required by ORS 18.973; or

(d) The calculations or other documentation provided to the sheriff appear irregular to the sheriff.

(3) If the calculations or other documentation provided to the sheriff appear irregular to the sheriff, and the claimant objects to the failure of the sheriff to issue a certificate of redemption pursuant to subsection (2)(d) of this section, the sheriff shall give written notice to the court of the objection pursuant to ORS 18.992.

(4) If a claimant pays the sheriff the redemption amount specified in the redemption notice, but the sheriff does not issue a certificate of redemption pursuant to subsection (2) of this section, the sheriff shall give the claimant a receipt for the funds in lieu of a certificate of redemption.

(5) If a response is filed with the sheriff in the manner required by ORS 18.972 before the payment date specified in the notice, and the claimant makes payment as required by subsection (1) of this section but fails to pay additional amounts claimed in the response, the redemption notice is of no effect and the

sheriff shall return the payment to the claimant unless:

(a) The claimant objects to the response in the manner provided by ORS 18.973; or

(b) The claimant pays additional amounts claimed in the response, plus interest, in the manner provided by subsection (6) of this section.

(6) If a response is filed with the sheriff in the manner required by ORS 18.972 before the payment date specified in the notice, and the claimant makes payment as required by subsection (1) of this section but fails to pay additional amounts claimed in the response, the sheriff shall issue a certificate of redemption to the claimant dated as of the date that the receipt was issued under subsection (4) of this section if the claimant pays additional amounts claimed in the response, plus interest, within seven days after the date the receipt was issued. [2005 c.542 §44e]

18.978 Court proceedings on objections. (1) If an objection is filed under ORS 18.971 or 18.973, the sheriff shall transmit to the court administrator copies of all records relating to the sale that are within the sheriff's possession.

(2) The court shall schedule a hearing on an objection filed under ORS 18.971 or 18.973 as soon as possible.

(3) If a certificate holder files an objection under ORS 18.971, and the court determines that the claimant is eligible to redeem, the court shall direct the sheriff to issue a certificate of redemption to the claimant, dated as of the date that the receipt was issued under ORS 18.975. If the court determines that the claimant is not eligible to redeem, the court shall direct the sheriff to refund all amounts paid by the claimant to the sheriff.

(4) If an objection is filed by a claimant under ORS 18.973, the court shall determine the proper redemption amount. If the court determines that the proper redemption amount is greater than the amount paid under ORS 18.975, the court shall direct the sheriff to issue a certificate of redemption to the claimant upon payment of the additional amounts plus interest within 10 days after entry of the court's order, dated as of the date that the receipt was issued under ORS 18.975. If the additional amounts and interest are not paid within the time allowed, the redemption is void and the sheriff shall refund to the claimant all amounts paid to the sheriff. If the court determines that the proper redemption amount is less than the amount paid under ORS 18.975, the court shall direct the sheriff to issue a certificate of redemption to the claimant, dated as of the date that the receipt was issued under

ORS 18.975, and order a refund to the claimant of the amounts determined by the court to be in excess of the proper redemption amount.

(5) Upon issuance of a certificate of redemption under this section, the sheriff shall deliver to the certificate holder the amount determined to be the proper redemption amount.

(6) If the court determines under subsection (4) of this section that the proper redemption amount is greater than the amount paid under ORS 18.975, and determines that the amount specified in the redemption notice does not represent a good faith attempt to determine the proper redemption amount, the court shall enter judgment against the claimant for all attorney fees incurred by the certificate holder in the proceedings. [2005 c.542 §44f]

18.980 Accounting. (1) A judgment debtor may require that a certificate holder provide an accounting under this section by including a request for an accounting in the redemption notice. If a redemption notice includes a request for an accounting, the certificate holder shall attach an accounting to the response given under ORS 18.972. The accounting must reflect:

(a) The amount of any taxes the certificate holder has paid on the property, with interest at the rate of nine percent per annum from the date of payment.

(b) Any amounts necessarily expended by the certificate holder to prevent waste, with interest at the rate of nine percent per annum from the date of payment.

(c) Any amounts that the certificate holder has paid on liens superior to the lien of the certificate holder, with interest at the rate of nine percent per annum from the date of payment.

(d) The amount owing on the lien of the certificate holder, if the certificate holder is a redemptioner.

(e) The net proceeds of rents, income or profits from the property by the certificate holder while the certificate holder has been in possession of the property.

(2) If a redemption notice includes a request for an accounting and the certificate holder fails to respond as required by ORS 18.972, the time for paying the redemption amount is automatically extended to 30 days after the redemption date specified in the redemption notice or until the time specified by subsection (4) of this section if a claimant files a motion under subsection (3) of this section.

(3) If a redemption notice includes a request for an accounting, and the certificate

holder fails to respond as required by ORS 18.972, the claimant may file a motion with the court requesting an order requiring the certificate holder to show cause why the certificate holder should not be held in contempt. A motion under this subsection must be made not more than 28 days after the redemption notice is served on the certificate holder. The claimant must deliver a copy of the motion to the sheriff.

(4) If a motion is filed under subsection (3) of this section:

(a) The time for redemption of the property is automatically extended to 30 days after the accounting is provided by the certificate holder; and

(b) The time for paying the redemption amount is automatically extended to 30 days after the accounting is provided by the certificate holder. [2005 c.542 §45]

18.981 Manner of payment. (1) Except as provided in this section, a sheriff shall accept as payment from a claimant a cashier's check or cash. Except as provided in this section, a sheriff shall accept any combination of cashier's checks or cash that is adequate to pay the redemption amount.

(2) A sheriff shall accept a cashier's check as payment only if the cashier's check is made payable to the sheriff and is drawn on a financial institution that is authorized to do business under the laws of Oregon or the United States. If any part of the redemption amount is paid with a cashier's check, the sheriff shall give the purchaser a receipt for the funds in lieu of a certificate of redemption under ORS 18.975.

(3) If any part of the redemption amount is paid with a cashier's check, the sheriff shall deposit the check in a financial institution not later than the end of the first business day after the day on which the check is received. The check must be deposited in a separate account.

(4) If the sheriff receives verification from a financial institution within 15 days after the date of the redemption that all cashier's checks delivered to the sheriff for the redemption have received final settlement, and the sheriff is required to give a certificate of redemption under ORS 18.975, the sheriff shall mail to the claimant by first class mail a certificate of redemption and deliver to the certificate holder all amounts paid to the sheriff. If the sheriff is not required to give a certificate of redemption under ORS 18.975, the sheriff shall give the person tendering the amounts a receipt for the funds in lieu of a certificate of redemption, and shall deliver a certificate of redemption and the amounts paid to the sheriff

only as provided in ORS 18.978 after a final decision by the court.

(5) If the sheriff does not receive verification from a financial institution within 15 days after the checks are deposited that all cashier's checks delivered to the sheriff have received final settlement, the redemption is void and the sheriff shall return to the claimant any cash tendered by the claimant and any amounts received for cashier's checks for which final settlement was received, less any bank charges incurred for cashier's checks and any other amount allowed by law.

(6) As used in this section:

(a) "Cashier's check" has the meaning given that term in ORS 73.0104.

(b) "Financial institution" has the meaning given that term in ORS 706.008. [2005 c.542 §46]

18.982 Redemptioner must provide sheriff with address. A redemptioner must provide the sheriff with an address to which a redemption notice may be sent and must notify the sheriff of any change in address until the redemptioner transfers the redemptioner's interest in the property, the property is redeemed or the expiration of the time allowed for another redemption, whichever occurs first. Any person who acquires the redemptioner's interest in the property must notify the sheriff of the transfer, provide the sheriff with an address to which a redemption notice may be sent, and notify the sheriff of any change in address until there is another transfer, the property is redeemed or the expiration of the time allowed for another redemption, whichever occurs first. [2005 c.542 §46a]

(Waste)

18.983 Court may restrain waste. Upon motion of a claimant, or a certificate holder who is not in possession of the property, the court may restrain waste of the real property sold at an execution sale. A person in possession of the real property does not commit waste of the property by continuing to use the property in the same manner in which the property was used before the execution sale, by engaging in the ordinary course of husbandry on the property or by making necessary repairs to buildings. [2005 c.542 §47]

(Sheriff's Deed)

18.985 Sheriff's deed. (1) Unless the property is redeemed by the judgment debtor, upon request of the certificate holder and payment of the fee required by ORS 21.300 (1)(c), the sheriff shall execute and deliver a deed for real property sold at an execution sale. The deed shall convey the property to

the certificate holder. The deed shall be delivered to the certificate holder as soon as possible.

(2) Notwithstanding subsection (1) of this section, the court may direct the sheriff to execute a deed to a certificate holder before the expiration of the time allowed for redemption if the certificate holder establishes that the certificate holder has acquired the rights of all persons entitled to redeem. [2005 c.542 §48]

SPECIAL RULES FOR SPECIFIC TYPES OF PROPERTY

18.986 Manufactured dwellings and floating homes. (1) Except as provided in subsection (2) of this section, a manufactured dwelling or floating home must be levied on and sold in the same manner as provided for real property under ORS 18.860 to 18.993 if the real property upon which the manufactured dwelling or floating home is located is to be sold at the execution sale.

(2) A manufactured dwelling or floating home that is held as inventory for sale or lease in the normal course of business must be levied on and sold in the same manner as provided for tangible personal property under ORS 18.860 to 18.993.

(3) If the real property upon which a manufactured dwelling or floating home is located is not to be sold at the execution sale, and the manufactured dwelling or floating home is not held as inventory for sale or lease in the normal course of business, the manufactured dwelling or floating home must be levied on and sold in the same manner as provided for real property under ORS 18.860 to 18.993 except that:

(a) The legal description required by ORS 18.875 (1)(e) need not be included in the instructions to the sheriff; and

(b) The sheriff shall give the purchaser of a manufactured dwelling or floating home a bill of sale under ORS 18.940 and not a certificate of sale under ORS 18.942.

(4) For the purposes of this section:

(a) "Floating home" has the meaning given that term in ORS 830.700.

(b) "Manufactured dwelling" has the meaning given that term in ORS 446.003. [2005 c.542 §49]

18.987 Purchaser's interest in land sale contract; leasehold interest in land with unexpired term of more than two years. (1) Except as provided in this section, a purchaser's interest in a land sale contract, as defined by ORS 18.960, or a leasehold interest in land with an unexpired term of more than two years must be levied on and

sold in the same manner as provided for real property under ORS 18.860 to 18.993.

(2) The legal description required by ORS 18.875 (1)(e) in instructions to a sheriff directing the sale of a purchaser's interest in a land sale contract, as defined by ORS 18.960, or the sale of a leasehold interest in land with an unexpired term of more than two years must be of the property sold under the land sale contract, or of the real property subject to the lease.

(3) There is no right of redemption if a purchaser's interest in a land sale contract, as defined by ORS 18.960, is sold at an execution sale pursuant to a judgment enforcing the seller's rights under the contract and if the judgment directing the sale of the purchaser's interest indicates that the purchaser's interest is sold without redemption rights. [2005 c.542 §50]

18.988 Seller's right to receive payments under land sale contract. (1) Except as provided by this section, the right of a seller to receive payments under a land sale contract, as defined by ORS 18.960:

(a) May not be sold pursuant to a writ of garnishment;

(b) May be sold only under a writ of execution in conjunction with a sale of the seller's interest in the real property; and

(c) Must be levied on and sold in the same manner as provided for real property under ORS 18.860 to 18.993.

(2) This section does not affect the ability of a judgment creditor to garnish payments owed to a seller under a land sale contract, as defined by ORS 18.960, that are due when the writ of garnishment is delivered or within 45 days after the writ of garnishment is delivered, as provided by ORS 18.685 (5). [2005 c.542 §51]

18.989 Equitable interests in property.

(1) Except as provided in subsection (3) of this section, an equitable interest in property may be sold pursuant to a writ of execution only if:

(a) An order or judgment specifically authorizes the sale of the equitable interest; and

(b) The writ of execution specifically directs the sale of the equitable interest.

(2) If a writ of execution specifically directs the sale of the equitable interest in property, the judgment creditor must submit a copy of the order or judgment authorizing the sale with the instructions to the sheriff required by ORS 18.875.

(3) If a writ of execution specifically directs the sale of the equitable interest in real property, the equitable interest shall be levied on and sold in the same manner as

provided for real property under ORS 18.860 to 18.993.

(4) A purchaser's interest in a land sale contract, as defined by ORS 18.960, or a leasehold interest in land with an unexpired term of more than two years, may be sold pursuant to a writ of execution even though the sale is not specifically authorized by an order or judgment and the writ does not specifically direct the sale of the interest. [2005 c.542 §52]

MISCELLANEOUS

18.992 Referral of disputes to court. If at any time a judgment debtor, judgment creditor, purchaser or lien claimant objects to the performance by a sheriff of any duty imposed on the sheriff under ORS 18.860 to 18.993, the sheriff may give written notice of the objection to the court and request that the court resolve the dispute. If written notice is given to the court under this section, the court shall resolve the dispute and provide such additional instructions to the sheriff as may be necessary. [2005 c.542 §53]

18.993 Effect of ORS 18.860 to 18.993 on court's ability to direct seizure. Nothing in ORS 18.860 to 18.993 affects the ability of a court to direct seizure of property under ORS 18.268 (2). [2005 c.542 §54]

18.995 Owner not allowed to neglect foreclosed residential real property; local government to notify owner of violation; lien for unreimbursed costs. (1) As used in this section:

(a) "Foreclosed residential real property" means residential property, as defined in ORS 18.901, that an owner obtains as a result of:

(A) Foreclosing a trust deed on the residential property; or

(B) Receiving a judgment that forecloses a lien on the residential property.

(b) "Neglect" means:

(A) To fail or a failure to maintain the buildings, grounds or appurtenances of foreclosed residential real property in such a way as to allow:

(i) Excessive growth of foliage that diminishes the value of adjacent property;

(ii) Trespassers or squatters to remain on the foreclosed residential real property or in a structure located on the foreclosed residential real property;

(iii) Mosquito larvae or pupae to grow in standing water on the foreclosed residential real property; or

(iv) Other conditions on the foreclosed residential real property that cause or contribute to causing a public nuisance.

(B) To fail or a failure to monitor the condition of foreclosed residential real property by inspecting the foreclosed residential real property at least once every 30 days with sufficient attention so as to prevent, or to identify and remedy, a condition described in subparagraph (A) of this paragraph.

(c) "Owner" means a person, other than a local government, that forecloses a trust deed by advertisement and sale under ORS 86.752 or by suit under ORS 88.010.

(d) "Reasonable costs" means actual and demonstrable costs that are commensurate with and do not exceed the market rate for services necessary to remedy a condition of neglect, plus the actual and demonstrable costs of administering a contract for services to remedy a condition of neglect or the portion of the costs of a program to remedy conditions of neglect that are attributable to remedying a condition of neglect for specific foreclosed residential real property.

(2)(a) An owner may not neglect the owner's foreclosed residential real property during any period in which the foreclosed residential real property is vacant.

(b) An owner shall provide the owner's name or the name of the owner's agent and a telephone number or other means for contacting the owner or agent to:

(A) The neighborhood association for the neighborhood in which the foreclosed residential real property is located; or

(B) An official that the local government designates to receive the information described in this paragraph.

(c) An owner shall post a durable notice in a conspicuous location on the foreclosed residential real property that lists a telephone number for the owner or for the local government that a person may call to report a condition of neglect. The owner shall replace the notice if the notice is removed from the foreclosed residential real property during a period when the foreclosed residential real property is vacant.

(d) An owner or the agent of an owner shall identify the owner of the foreclosed residential real property to the local government and shall provide to, and maintain with, the local government current contact information during a period when the foreclosed residential real property is vacant.

(3)(a) If a local government finds a violation of subsection (2)(a) of this section, the local government shall notify the owner in writing of the foreclosed residential real property that is the subject of the violation and in accordance with paragraph (b) or (c) of this subsection, as appropriate, shall specify a time within which the owner must

remedy the condition of neglect that is the basis for the local government's finding.

(b) The local government shall allow the owner not less than 30 days to remedy the violation unless the local government makes a determination under paragraph (c) of this subsection and shall provide the owner with an opportunity to contest the local government's finding at a hearing. The owner must contest the local government's finding within 10 days after the local government notifies the owner of the violation.

(c) If the local government determines that a specific condition of the foreclosed residential real property constitutes a threat to public health or safety, the local government may require an owner to remedy the specific condition in less than 30 days, provided that the local government specifies in the written notice the date by which the owner must remedy the specific condition. A local government may specify in the written notice different dates by which the owner must remedy separate conditions of neglect on the foreclosed residential real property.

(4)(a) After a local government allows an owner the time specified in subsection (3)(b) of this section or makes a determination under subsection (3)(c) of this section, the local government may remedy or contract with another person to remedy neglect or a specific condition of neglect on foreclosed residential real property and require the owner to reimburse the local government for reasonable costs the local government incurs under this paragraph.

(b) A local government that has incurred costs with respect to foreclosed residential real property under paragraph (a) of this subsection has a lien on the foreclosed residential real property for the sum of the local government's unreimbursed costs. A lien created under this paragraph is prior to all other liens and encumbrances, except that the lien has equal priority with a tax lien. The lien attaches at the time the local government files a claim of lien with the county clerk of the county in which the foreclosed residential real property is located. A local government may bring an action in the circuit court to foreclose the lien in the manner provided for foreclosing other liens on real or personal property. [2013 c.317 §1]

Note: 18.995 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 18 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

18.999 Recovery of expenses incurred in enforcing judgment and certain other monetary obligations. This section establishes the right of a plaintiff to recover certain moneys the plaintiff has expended to

recover a debt under ORS 18.854 or to enforce a judgment and establishes procedures for that recovery. The following apply to this section:

(1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff may proceed as follows:

(a) Before crediting the total amount of moneys received against the judgment or debt, the plaintiff may recover and keep from the total amount received under the garnishment, attachment or payment any moneys allowed to be recovered under this section.

(b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall credit the remainder of the moneys received against the judgment or debt as provided by law.

(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid on and to be credited against the original judgment or debt sought to be enforced. No additional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

(3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific judgment or debt that the specific garnishment or attachment was issued to enforce or upon which the payment was received. Moneys recoverable under subsection (1)(a) of this section remain recoverable and, except as provided under subsection (8) of this section, may be recovered from moneys received by the plaintiff under subsequent garnishments, attachments or payments on the same specific judgment or debt.

(4) This section allows the recovery only of the following:

(a) Statutorily established moneys that meet the requirements under subsection (3) of this section, as follows:

(A) Garnishee's search fees under ORS 18.790.

(B) Fees for delivery of writs of garnishment under ORS 18.652.

(C) Circuit court fees as provided under ORS 21.235 and 21.258.

(D) County court fees as provided under ORS 5.125.

(E) County clerk recording fees as provided in ORS 205.320.

(F) Actual fees or disbursements made under ORS 21.300.

(G) Costs of execution as provided in ORS 105.112.

(H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed \$37 for each garnishment.

(I) Costs of an execution sale as described in ORS 18.950 (2).

(J) Fees paid under ORS 21.200 for motions and responses to motions filed after entry of a judgment.

(K) Amounts paid to a sheriff for the fees and expenses of executing a warrant under ORS 105.510.

(b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and ending upon recovery of the amount under this section.

(5) The plaintiff shall be responsible for doing all of the following:

(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section and making the accounting available for any proceeding relating to that judgment or debt.

(b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under subsection (1)(a) of this section.

(6) Moneys recovered under subsection (1)(a) of this section remain subject to all other provisions of law relating to payments, or garnished or attached moneys including, but not limited to, those relating to exemption, claim of exemption, overpayment and holding periods.

(7) Nothing in this section limits the right of a plaintiff to recover moneys described in this section or other moneys in any manner otherwise allowed by law.

(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recoverable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced to a judgment or to a debt enforceable under ORS 18.854. [Formerly 18.910; 2007 c.860 §§11,31; 2009 c.659 §§5,7; 2011 c.366 §§3,4; 2011 c.595 §115; 2013 c.685 §39]

Note: 18.999 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 18 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.