

Chapter 18

2003 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 in installments and that is entered under ORS 108.010 to 108.550, 416.310 to 416.340, 416.400 to 416.470, 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) “Claim” includes a charge in a criminal action.

(5) “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.

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

(7) “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.

(8) “General judgment” means the judgment entered by a court that decides all claims in the action except:

(a) A claim previously decided by a limited judgment; and

(b) A claim that may be decided by a supplemental judgment.

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

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

(11) “Judgment lien” means 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. “Judgment lien” includes any support arrearage lien attaching to real property under ORS 18.150 (3) or 18.152 (3).

(12) “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.

(13) “Limited judgment” means a judgment rendered before entry of a general judgment in an action that disposes of at least one but fewer than all claims in the action and that is rendered pursuant to a statute or other source of law that specifically authorizes disposition of fewer than all claims in the action. “Limited judgment” includes:

(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; and

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

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

(15) “Supplemental judgment” means a judgment that by law may be rendered after a general judgment has been entered in the action and that affects a substantial right of a party.

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

(17) “Support award” means a money award or agency order that requires the payment of child or spousal support in installments. [2003 c.576 §1]

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] 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]

18.030 [Amended by 1973 c.207 §1; 1977 c.616 §1; repealed by 1981 c.898 §53]

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 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]

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 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]

18.040 [Repealed by 1981 c.898 §53]

18.042 Judgment in civil action that includes money award.

(1) As a condition of creating a judgment lien, 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) As a condition of creating a judgment lien, the judgment document for a judgment in a civil action that includes a money award 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)(A) The name of each judgment debtor and, to the extent known by the judgment creditor:

(i) Address;

(ii) Date of birth;

(iii) Social Security number or tax identification number;

(iv) Driver license number and the state of issuance; and

(v) Name of any attorney for each judgment debtor.

(B) A public body, as defined in ORS 174.109, shall not include the Social Security number or driver license number of a judgment debtor if disclosure of the Social Security number or driver license number violates federal law or any law of this state.

(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 the money award.

(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 claims for which any attorney fees are awarded and the amount of attorney fees awarded for each claim.

(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 (2) 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 requirements of this section are not jurisdictional for purposes of appellate review.

(6) 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 re-

quired by ORS 24.125 must be filed with the foreign judgment as a condition of the judgment creating a judgment lien. [2003 c.576 §5]

18.048 Judgment in criminal action that contains money award. (1) If a judgment document in a criminal action 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 obligation, and the judgment is for conviction of a felony or misdemeanor, the court administrator shall note in the register that the judgment creates a judgment lien if the judgment document complies with this section. If the judgment is for conviction of a violation as described in ORS 153.008, the court administrator shall note in the register that the judgment creates a judgment lien only if the court has ordered that the judgment create a judgment lien.

(2) As a condition of creating a judgment lien, the judgment document for a judgment in a criminal action that includes a money award must contain a separate section setting forth the money award, must meet the requirements of ORS 18.038 and 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) 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. [2003 c.576 §6]

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. 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.

(2) A court administrator that 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]

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 separate record required by ORS 18.075, 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]

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

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 separate 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 is a support award.

(4) If the court administrator makes a notation of judgment in the separate record required by subsection (3) of this section, the court administrator shall thereafter also note in the separate 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, and in ORCP 69 B(1) for judgments by default, 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 separate record required by subsection (3) of this section, 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]

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 main-

tained 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]

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 419B or 419C, civil commitment proceedings, probate proceedings, adoptions or guardianship or conservatorship proceedings under ORS chapter 125. [2003 c.576 §10]

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 claims 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 final as to the claim or claims resolved.

(3) Upon entry of a general judgment, any claim 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 claim or charge 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]

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 claims in the action other than claims previously decided by a limited judgment or claims 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 claims 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 claims 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]

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 or 18.048, 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 (1) 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) 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

(b) 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 ac-

quired 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]

18.152 Establishing judgment lien 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 installment that became due under the terms of the support award before the judgment was recorded.

(b) A support arrearage lien for 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 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]

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 separate record required under ORS 18.075, that the judgment lien has been eliminated. [2003 c.576 §16]

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. (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. A conveyance of real property, or any portion thereof, or interest therein, shall be void as against the lien of a judgment, unless the conveyance is recorded at the time the judgment is entered, or at the time the judgment is recorded under ORS 18.152. [Formerly 18.370]

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. Debtor's Social Security No. or Taxpayer Identification No. (if known):

_____ 4. 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____.

_____)
State of Oregon

County of _____) ss.

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

Notary Public for Oregon

My commission expires: _____

State of Oregon)
County of _____) ss.

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]

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) Judgment remedies for a judgment in a criminal action expire 20 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 money award for unpaid child support installments, expire 25 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, and the future payment does not become due for 10 or more years after the judgment is entered, 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]

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 separate record maintained under ORS 18.075. 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 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]

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 requirement 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 expire 10 years after the entry of the judgment.

(3) Judgment remedies for a judgment in a criminal action expire 20 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]

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 separate record maintained under ORS 18.075 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]

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, or by an attorney who represents the judgment creditor. The signature of the judgment creditor or attorney signing the document 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 separate record maintained under ORS 18.075; 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 418.032, 418.042, 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]

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 separate record maintained under ORS 18.075 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]

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 separate record maintained under ORS 18.075 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]

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 provided 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 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 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 party 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 filing 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 demanding party may satisfy the judgment by paying such amounts the court determines to be neces-

sary 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 separate record maintained under ORS 18.075 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 judgment debtor or 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]

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 received 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 ac-

tion. See Preface to Oregon Revised Statutes for further explanation.

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 18.850 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 before 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 paragraph 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]

EXEMPT PROPERTY (Generally)

18.300 Resident not entitled to federal bankruptcy exemptions. In accordance with Section 522 (b) of the Bankruptcy Code of 1978 (11 U.S.C. 522 (b)), residents of this state shall not be entitled to the federal exemptions provided in Section 522 (d) of the Bankruptcy Code of 1978 (11 U.S.C. 522 (d)). Nothing in this section shall affect the exemptions given to residents of this state by the Constitution of the State of Oregon and the Oregon Revised Statutes. [Formerly 23.305]

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. Execution shall not issue against the property of a deceased party, but such judgment shall be paid as a claim against the estate of the deceased party in the manner prescribed by ORS chapter 115 or ORS 114.505 to 114.560. [Formerly 23.105]

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 proceedings 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. Except as provided in ORS 18.536, 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]

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 \$3,000.

(d) A vehicle to the value of \$1,700. 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 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 (o) of this section in the same or different properties. The exemptions provided by subsection (1)(a), (b), (c), (d), (j), (k) and (o) 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, 75 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 subsec-

tion (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 75 percent of the payment or \$7,500 is exempt. [Formerly 23.160]

18.348 Certain funds exempt when deposited in account; limitations. (1) All funds exempt from execution and other process under ORS 18.358, 18.385 (2) to (4), 238.445, 344.580, 348.863, 401.405, 407.595, 411.760, 412.115, 412.610, 413.130, 414.095, 655.530, 656.234, 657.855 and 748.207 and section 3101, title 38, United States Code and section 407, title 42, United States Code shall remain exempt when deposited in an account of a judgment debtor as long as the exempt funds are identifiable.

(2) The provisions of subsection (1) of this section shall not apply to any accumulation of funds greater than \$7,500. [Formerly 23.166]

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 and 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 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]

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 re-

sult in net disposable earnings for an individual of less than the following amounts:

(a) \$170 for any period of one week or less;

(b) \$340 for any two-week period;

(c) \$368 for any half-month period;

(d) \$731 for any one-month period; and

(e) For any other period longer than one week, \$170 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 \$170 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 18.902 (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]

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 \$25,000, 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 \$33,000. 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 \$25,000 or \$33,000, 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 provided in ORS 18.536, and in conformance with subsection (5) of this section, the levying officer may proceed to advertise and sell the property. If the homestead exemption applies, the levying officer shall pay the homestead owner out of the proceeds the sum of \$25,000 or \$33,000, 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 \$25,000 or \$33,000, whichever is applicable. If no such bid is received, the expense of the advertising and preparation for sale shall be borne by the petitioner. [Formerly 23.240]

Note: Section 3, chapter 135, Oregon Laws 1999, provides:

Sec. 3. The amendments to ORS 23.240 [renumbered 18.395] and 23.164 [renumbered 18.428] by sections 1 and 2 of this 1999 Act apply only to judgments entered in the register of a court on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.135 §3]

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 18.536 if the proceeding is based on a judgment for child support that arises out of an order or judg-

ment under ORS 24.115, 107.095, 107.105, 107.135, 108.120, 109.100, 109.103, 109.155, 109.165, 416.400 to 416.470, 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 18.536 brought by or on the behalf of the state or any agency of the state. [Formerly 23.242]

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 \$25,000 or \$33,000, whichever amount is applicable under ORS 18.395 (1). [Formerly 23.250]

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

18.406 Exemption not applicable to construction or purchase-money liens or mortgages. 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 or to mortgages lawfully executed. [Formerly 23.260]

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 be styled as a paper in

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 \$25,000 or \$33,000, 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]

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, with the court administrator for the court in which the judgment was entered, objections to the notice and request for a hearing upon the application for an order made pursuant to ORS 18.422 (4). The objections and a 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]

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 re-

quired 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]

(Mobile Homes)

18.428 Mobile home exemption. (1) A mobile home, and the property upon which the mobile home is situated, that is the actual abode of and occupied by the owner, or the owner's spouse, parent or child, when that mobile home is occupied as a sole residence and no other homestead exemption exists, shall be exempt from execution and from liability in any form for the debts of the owner to the value of \$23,000, except as otherwise provided by law. 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 may not exceed \$30,000. The exemption shall be effective without the necessity of a claim thereof by the judgment debtor.

(2) The exemption provided for in subsection (1) of this section is not impaired by temporary removal or absence with the intention to reoccupy the mobile property as a home, nor by the sale thereof, but shall ex-

tend to the proceeds derived from such sale up to \$23,000 or \$30,000, whichever amount is applicable under subsection (1) of this section, while the proceeds are held for a period not exceeding one year and with the intention to procure another mobile or other homestead therewith.

(3) Upon the issuance of an order authorizing sale as provided in ORS 18.536, the levying officer may proceed to advertise and sell the premises and, if the homestead exemption applies, out of the proceeds pay the mobile home owner the sum of \$23,000 or \$30,000, whichever amount is applicable under subsection (1) of this section, 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 property is in excess of the sum of the costs of sale and \$23,000 or \$30,000, whichever amount is applicable. If no such bid is received, the expense of the advertising and preparation for sale shall be borne by the petitioner.

(4) The provisions of subsections (1), (2), (3) and (7) of this section do not apply to construction liens for work, labor or material done or furnished exclusively for the improvement of the mobile home, or to purchase money liens and to mortgages lawfully executed, or to executions issued on a judgment recovered for the purchase price.

(5) If a debtor owns a mobile home but not the property upon which the mobile home is situated, subsections (1), (2), (3) and (4) of this section shall apply, but the value of the debtor's interest exempt from execution and liability may not exceed \$20,000 for an individual debtor, or \$27,000 when two or more members of a household are debtors whose interests in the homestead are subject to execution or liability in any form.

(6) When the owner of a homestead under this section has been granted a discharge in bankruptcy or has conveyed the 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.

(7) Except as provided in subsection (9) of this section, no mobile home, or property upon which the mobile home is situated, 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. The judgment shall remain a lien upon the real property owned by the judgment debtor and upon which the mobile home is situated, and the mobile home and real property upon which it is situated may be sold on execution:

(a) At any time after the sale of the mobile home or real property by the judgment debtor; and

(b) At any time after the mobile home or real 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.

(8) The limitation on execution sales imposed by subsection (7) of this section is not impaired by temporary removal or absence with the intention to reoccupy the mobile home and property as a home.

(9) The limitation on execution sales imposed by subsection (7) 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.

(10) As used in this section, unless the context requires otherwise, "mobile home" includes, but is not limited to, a houseboat. [Formerly 23.164]

Note: See note under 18.395.

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]

WRITS OF EXECUTION

(Generally)

18.465 Writs of execution generally. (1) Except as otherwise provided by law, upon request of a judgment creditor or other prevailing party under a judgment, the court shall issue a writ of execution for any judgment that includes a money award or that requires the delivery of specific real or personal property. Except as provided by ORS 18.255 and 18.472, writs of execution may be issued only by the court administrator for the court in which the judgment was entered. A writ of execution may be issued:

(a) For application of real property of the judgment debtor against a money award.

(b) For application of personal property of the judgment debtor against a money

award, other than personal property that is in the possession of other persons.

(c) For the delivery of the possession of specific real or personal property pursuant to the terms of the judgment.

(2) If a writ of execution is issued for application of real or personal property of a judgment debtor against a money award, the writ may be issued to the sheriff of any county in this state where property of the judgment debtor is located. If the writ of execution is issued for the delivery of the possession of specific real or personal property, the writ must be issued to the sheriff of the county where all or part of the property is situated. More than one writ of execution may be issued at the same time to different counties. [2003 c.576 §34]

18.468 Issuance of writs of execution by court; contents. (1) The court administrator shall issue writs of execution. The writ must be directed to the sheriff and must contain the name of the court, the names of the parties to the action, and the title of the action. 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 due on the money award when the writ is issued.

(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 and apply the proceeds as directed by the judgment.

(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) If the judgment does not require that specific real or personal property of the judgment debtor be sold or delivered, the writ may direct the sheriff to sell the real or personal property specified by the judgment creditor in instructions given to the sheriff. The judgment creditor must provide the sheriff with instructions that particularly describe the personal property to be seized and indicate where the property may be found. The judgment creditor must provide the sheriff with instructions that particularly describe any real property to be sold.

(5) Upon issuance of a writ of execution to the sheriff of any county, the judgment creditor must record a certified copy of the writ or a lien record 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. The recorded documents must contain a legal description of the real property. The recording of the writ or lien record 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, has the same effect as recording a notice of pendency under ORS 93.740.

(6) A single writ of execution may be issued for the purposes specified in subsections (2), (3) and (4) of this section.

(7) When issuing a writ of execution, the court administrator may rely on the information provided by the person seeking issuance of the writ and is not liable for any errors or omissions in that information. [2003 c.576 §35]

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

18.472 Issuance of writs of execution 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 under ORS 18.468.

(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 issued under ORS 18.468. [2003 c.576 §36]

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

18.476 Sheriff's duties. (1) A sheriff shall comply with the directions to the sheriff in a writ of execution. If the writ directs the sale or delivery of personal property, the sheriff shall promptly seize the property. If the writ directs the sale of real property or a mobile home, the sheriff shall give notice of an execution sale under ORS 18.532.

(2) If personal property of the judgment debtor was attached under ORCP 84, the sheriff shall apply the attached property against the judgment in the manner provided by ORCP 84 E, and make a return on the writ with any money that was attached and the proceeds of any other property that was sold.

(3) When property has been sold by the sheriff at an execution sale, the sheriff shall pay the proceeds of the sale to the court ad-

ministrator. The proceeds must be paid by the date on which the writ must be returned. If any property remains in the custody of the sheriff after satisfaction of the money award, the sheriff shall release the property to the judgment debtor. [2003 c.576 §37]

18.478 Manner of executing writ. When the writ of execution is against the property of the judgment debtor, it shall be executed by the sheriff, as follows:

(1) If the property has been attached, the sheriff shall indorse on the execution, and pay to the court administrator forthwith the amount, if any, of the proceeds of sales of perishable property or debts due the defendant received by the sheriff, sufficient to satisfy the judgment.

(2) If the judgment is not then satisfied, and property has been attached and remains in the custody of the sheriff, the sheriff shall sell the same or sufficient thereof to satisfy the judgment.

(3) If then any portion of the judgment remains unsatisfied, or if no property has been attached, or the same has been discharged, the sheriff shall levy on the property of the judgment debtor sufficient to satisfy the judgment.

(4) Property shall be levied on in like manner and with like effect as similar property is attached.

(5) Until a levy, property shall not be affected by the execution. When property has been sold or debts received by the sheriff on execution, the sheriff shall pay the proceeds thereof, or sufficient to satisfy the judgment, to the court administrator by the day which the writ is returnable.

(6) When property has been attached, and it is probable that such property will not be sufficient to satisfy the judgment, the execution may be levied on other property of the judgment debtor, without delay. If, after satisfying the judgment, any property or the proceeds thereof remain in the custody of the sheriff, the sheriff shall deliver the same to the judgment debtor. [Formerly 23.410]

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

18.482 Indemnification of sheriff or constable. (1) Subject to subsections (2) and (3) of this section, whenever a writ of execution is delivered into the hands of any sheriff or constable, under which the personal property of any person, firm or corporation is to be held or sold for the satisfaction of any judgment or costs of action or suit, if the sheriff or constable has actual notice of any third-party claim to the personal property, or is in doubt as to ownership of the property, or of encumbrances

thereon, or damage to the property held that may result by reason of its perishable character, such sheriff or constable may require the judgment creditor to file with the sheriff or constable a good and sufficient bond or irrevocable letter of credit indemnifying the sheriff or constable and the sureties in the undertaking of the sheriff or constable against any loss or damage by reason of the illegality of any such holding or sale on execution, or by reason of damage to any personal property held under execution, which bond or irrevocable letter of credit shall be in double the amount of the judgment by which the personal property is either held or to be sold.

(2) At the request of the judgment creditor the sheriff may accept a bond or irrevocable letter of credit less than double the amount of the judgment but in no event will the sheriff or constable approve a bond or irrevocable letter of credit less than double the estimated value of the property to be seized.

(3) When the property or the value of a third party interest exceeds the value of the judgment, the sheriff or constable may require an indemnity bond or irrevocable letter of credit of double the estimated value of the property to be seized. [Formerly 23.310]

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

18.486 Debtor may retain property upon giving bond. When the sheriff levies upon personal property by virtue of an execution, the sheriff may permit the judgment debtor to retain the same, or any part thereof, in the possession of the judgment debtor until the day of sale, upon the defendant executing a written undertaking to the sheriff, with sufficient surety, in double the value of such property, to the effect that it shall be delivered to the sheriff at the time and place of sale; and for nondelivery thereof an action may be maintained upon such undertaking by the sheriff or the plaintiff in the execution; but the sheriff shall not thereby be discharged from liability to the plaintiff for such property. [Formerly 23.440]

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

18.492 Return on writ of execution. 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 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 for an additional period of time not to exceed 90 days. [2003 c.576 §38]

18.494 Notice to judgment debtor. (1) Upon seizing any personal property of a judgment debtor under ORS 18.476, or upon giving notice of an execution sale of any real property or mobile home under ORS 18.532, the sheriff shall promptly mail or deliver the following to each judgment debtor who is not a corporation at the last-known address of each judgment debtor:

- (a) A copy of the writ of execution; and
- (b) A challenge to execution form as provided by ORS 18.512.

(2) The sheriff may meet the requirements of subsection (1) of this section by mailing the documents to the last-known address of the judgment debtor as provided by the judgment creditor. The sheriff may withhold execution of the writ until the judgment creditor either provides such address or a statement that the judgment creditor has no knowledge of the judgment debtor's address. The sheriff has no duty under this section if the judgment creditor provides a statement that the judgment creditor has no knowledge of the judgment debtor's address. [2003 c.576 §39]

18.500 [Formerly 41.950; renumbered 31.550 in 2003]

(Challenge to Writ of Execution)

18.505 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 to claim such exemptions under a writ of execution as are permitted by law.

(2) A judgment debtor may not use a challenge to execution form to challenge execution on residential real property or a mobile home of the debtor if the judgment creditor has obtained an order under ORS 18.536 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 personal property seized by a sheriff under ORS 18.476, or in any real property or a mobile home for which a notice of an execution sale has been given under ORS 18.532, 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 an execution by completing the challenge to execution form provided in ORS 18.512, 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 person who requested issuance of the writ.

(5) A challenge to execution against personal property must be delivered in the manner provided by subsection (4) of this section within 30 days after the property is seized under ORS 18.476, or before the property is sold on execution, whichever is first.

(6) A judgment debtor must deliver a challenge to execution against real property or a mobile home in the manner provided in subsection (4) of this section within 30 days after mailing of the notice required by ORS 18.532, or before the property is sold on execution, whichever is first. [2003 c.576 §40]

18.508 Notice of challenge to execution. Without unreasonable delay, a court administrator who has received a challenge to execution under ORS 18.505 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 18.515. [2003 c.576 §41]

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 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,

vs.

Defendant.

) CHALLENGE TO
) EXECUTION
)
) Case No. _____
)
)
)

THIS FORM MAY BE USED BY THE DEBTOR ONLY TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

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.

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 TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

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 18.518.

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) \$170 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) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$7,500).

(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 (home, farm, manufactured dwelling or houseboat) if you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead with land included) or proceeds from its sale for one year.

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

*(12) An automobile, truck, trailer or other vehicle with a value not to exceed \$1,700.

*(13) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

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

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

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

(17) Provisions (food) and fuel for your family for 60 days.

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

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

(22) Health insurance proceeds and disability proceeds of life insurance policies.

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

(24) Federal annuities.

(25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

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

*(27) Elderly rental assistance allowed pursuant to ORS 310.635.

*(28) 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.

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

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

(31) 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 (*).

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 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

[2003 c.576 §42]

18.515 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 18.505 (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 18.505. [2003 c.576 §43]

18.518 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. [2003 c.576 §44]

18.520 [Formerly 41.960; renumbered 31.560 in 2003]

18.530 [Formerly 41.970; renumbered 31.565 in 2003]

(Sale of Property)

18.532 Notice of sale. Before the sale of property on execution, notice thereof shall be given as follows:

(1) In case of personal property, except for a mobile home, by posting written or printed notice of the time and place of sale in three public places of the county where the sale is to take place, not less than 10 days successively, and by sending, forthwith upon such posting, a copy of such notice by registered mail or by certified mail with return receipt to the judgment debtor at the last-known post-office address or place of residence of the judgment debtor; however in the sale of perishable property the notice shall be posted for not less than 48 hours.

SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment

(2) In case of real property or a mobile home, by publishing a similar notice in a newspaper described in this subsection, particularly describing the property, once a week for four successive weeks, making four publishings in all, with the last publication at least one week prior to the day of sale. The notice shall be published in a newspaper of the county, if there is one, or if there is none, in a newspaper published nearest to the place of sale. Prior to the making of the first of such publishings, the sheriff shall send a copy of such notice by first class and by registered or certified mail to the judgment debtor at the last-known post-office address or place of residence of the judgment debtor. [Formerly 23.450]

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

18.536 Court authorization required for sale of residence. (1) As used in this section and ORS 18.532 and 18.552:

(a) "Mobile home" does not include a mobile home that is held as inventory for sale or lease in the ordinary course of business.

(b) "Residential real property" means a single family dwelling or condominium unit.

(2) The sheriff may not sell the residential real property or the mobile home of a natural person on execution without an order of the court authorizing the sale.

(3) The holder of a judgment desiring to have the residential real property or the mobile home of a natural person sold on execution may petition the court for an order authorizing the sheriff to sell. The petition must:

(a) Identify the judgment under which the property is to be sold and the amount due thereon;

(b) Indicate if the judgment arises out of an order or judgment for child support as described in ORS 18.398;

(c) Identify the residential real property or mobile home to be sold;

(d) Allege whether the property is a homestead or not; and

(e) If the property is a homestead, allege facts showing that it may nevertheless be sold on execution.

(4) The petition shall be accompanied by an affidavit disclosing the basis of the allegations contained in the petition. If the sheriff is to serve the papers under subsection (6) of this section, the petition and affidavit shall be accompanied by a deposit sufficient to pay the fees of the sheriff for that service.

(5) Promptly upon the filing of a petition and affidavit as provided in subsections (3)

and (4) of this section, the court shall schedule a hearing on the petition, allowing adequate time for notice to the judgment debtor at least 10 days prior to the hearing.

(6) At least 10 days prior to the hearing on the petition, the petitioner shall cause to be served upon the judgment debtor, in the manner provided by ORCP 7 for service of summons, a true copy of the petition and affidavit and of a notice of the time and place of the hearing 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 your 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 your property is your homestead if you, or your spouse, dependent parent or dependent child, actually live in it as your home. If you are temporarily absent from the property but intend to move back in, it is still your homestead.

The law provides that if the property is your homestead, then \$_____ of its value (\$_____ for a mobile home if you do not own the property it is on) 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 your property may be sold despite the fact that it is your homestead and all of its value 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.

(7) Whether the judgment debtor appears at the hearing on the petition or not, the court shall try the issues without formal pleadings and shall inquire as to the facts alleged in the petition. The judgment creditor shall have the burden of proof on all issues.

(8) Except as provided in ORS 18.395 (7) and 18.428 (9), the court may not authorize the sheriff to sell the property if 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 was \$3,000 or less at the time of entry of the judgment.

(9) If the court authorizes the sheriff to sell the property, the order of the court shall state whether the homestead exemption applies to the property, and if so, the amount of the exemption.

(10) This section does not apply to a writ of execution to enforce a judgment that directs the sale of the particular property or to a writ of execution to enforce a judgment arising out of the foreclosure of:

(a) A construction lien for work, labor or material done or furnished exclusively for the improvement of the property;

(b) A lawfully executed purchase money lien; or

(c) A lawfully executed mortgage or trust deed.

(11) If the petitioner prevails at the hearing, the court shall award the petitioner the costs of service of the papers under subsection (6) of this section. [Formerly 23.445]

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

18.538 Time and manner of sale; fee.

(1) All sales of property upon execution shall be made by auction, between 9 a.m. and 4 p.m. After sufficient property has been sold to satisfy the execution, no more shall be sold. Neither the officer holding the execution, nor a deputy of the officer, shall become a purchaser or be interested in any purchase at such sale. When the sale is of personal property capable of manual delivery, and not in the possession of a third person, it shall be within view of those who attend the sale, and be sold in such parcels as are likely to bring the highest price. When the sale is of real property, and consisting of several known lots or parcels, they shall be sold separately, or otherwise, as is likely to bring the highest price, or when a portion of such real property is claimed by a third person, and the third person requires it to be sold separately, such portion shall be sold separately.

(2) The county may charge a fee to be collected by the sheriff from the purchaser of property at the time of sale. The amount of the fee shall be established by the governing body of the county and shall be the

amount necessary to reimburse the county for:

(a) The actual cost of presale notice and of the sale; and

(b) The anticipated cost of postsale notice and administration. [Formerly 23.460]

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 Adjournment of sale. If, at the time appointed for the sale, the sheriff is prevented from attending at the place appointed, or being present deems it for the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sheriff may postpone the sale not exceeding one week, next after the day appointed, and so from time to time for like cause, giving notice of every adjournment by public proclamation, made at the same time. The sheriff for like cause may also adjourn the sale from time to time, not exceeding 30 days beyond the day at which the writ is made returnable, with the consent of the plaintiff indorsed upon the writ. [Formerly 23.470]

18.545 Delivery of personal property to purchaser. When the purchaser of any personal property capable of manual delivery, and not in the possession of a third person, shall pay the purchase money, the sheriff shall deliver to the purchaser the property, and if desired, shall give the purchaser a bill of sale containing an acknowledgment of the payment. In all other sales of personal property, the sheriff shall give the purchaser a bill of sale with like acknowledgment. [Formerly 23.480]

18.548 Proceedings after sale of realty.

Whenever real property is sold on execution, the provisions of this section shall apply to the subsequent proceedings, as follows:

(1) The plaintiff in the writ of execution is entitled, on motion therefor, to have an order confirming the sale at any time after the expiration of 10 days from the date of filing the return of sale, unless the judgment debtor, or in case of the death of the judgment debtor, the representative of the judgment debtor, files with the court administrator within 10 days after the return of the execution, the objections of the judgment debtor or representative thereto.

(2) If such objections are filed, the court or judge thereof shall, notwithstanding, allow the order confirming the sale, unless on the hearing of the motion it satisfactorily appears that there were substantial irregularities in the proceedings concerning the sale, to the probable loss or injury of the party objecting. In the latter case, the court or judge shall disallow the motion, and direct that the property be resold, in whole or in

part, as the case may be, as upon an execution received of that date.

(3) Upon the return of the execution, the sheriff shall pay the proceeds of the sale to the court administrator, who shall then apply the same, or so much thereof as may be necessary, in satisfaction of the judgment. If an order of resale is afterwards made, and the property sells for a greater amount to any person, other than the former purchaser, the court administrator shall first repay to such purchaser the amount of the bid of the purchaser, out of the proceeds of the latter sale. Upon a resale, the bid of the purchaser at the former sale shall be deemed to be renewed and continue in force, and no bid shall be taken except for a greater amount.

(4) An order confirming a sale shall be a conclusive determination of the regularity of the proceedings concerning such sale, as to all persons, in any other action, suit or proceeding.

(5) If, after the satisfaction of the judgment, there are any proceeds of the sale remaining, the court administrator shall pay such proceeds to the judgment debtor or the representative of the judgment debtor, at any time before the order is made upon the motion to confirm the sale, provided such party files with the court administrator a waiver of all objections to the proceedings concerning the sale. If the sale is confirmed, such proceeds shall be paid to such party, of course; otherwise they shall remain in the custody of the court administrator until the sale of the property has been disposed of. [Formerly 23.490]

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 Notice of sale of residence. After the sale on execution of the residential real property or the mobile home, as defined in ORS 18.536, of a natural person that is subject to redemption, as determined under ORS 18.565, notice of the sale shall be given as follows:

(1) 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 subject to redemption a written or printed 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 and by registered or certified mail to the presale owner of the property subject to redemption at the last-known post-office address or place of residence of the presale owner.

(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.

Oregon law gives you 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 _____.** If you do not do so, the County will deed your property over to the purchaser on that date.

The law that gives you the right to buy back your property is found in Oregon Revised Statutes 18.565 to 18.598. 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 and file 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 shall not void the sale of residential real property or a mobile home. However, this subsection shall not limit any other right the judgment debtor may have. [Formerly 23.515]

18.555 Evicted purchaser may recover purchase price. If the purchaser of real property sold on execution, or the successor in interest of the purchaser, is evicted therefrom in consequence of the reversal of the judgment, the purchaser or successor in interest may recover the price paid, with interest and the costs and disbursements of the suit by which the purchaser or successor in interest was evicted, from the plaintiff in the writ of execution. [Formerly 23.500]

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

18.562 Sheriff's certificate of sale. At the time of sale, the sheriff shall give to the purchaser a certificate of the sale containing a particular description of the property sold, the price bid for each distinct lot or parcel, the whole price paid, and, when subject to redemption, a statement of that fact. The matters contained in such certificate shall be

substantially stated in the sheriff's return of the proceedings of the sheriff upon the writ. [Formerly 23.510]

(Redemption)

18.565 When property redeemable.

Upon a sale of real property, when the estate is less than a leasehold of two years' unexpired term, the sale shall be absolute. In all other cases such property shall be subject to redemption, as provided in ORS 18.568 to 18.598. [Formerly 23.520]

18.568 Who may redeem. Property sold subject to redemption, as provided in ORS 18.565, or any part thereof separately sold, may be redeemed by the following persons:

(1) The mortgagor or judgment debtor whose right and title were sold, or the heir, devisee or grantee of the mortgagor or judgment debtor, who has acquired, by inheritance, devise, deed, sale, or by virtue of any execution or by any other means, the legal title to the whole or any part of the property separately sold; provided, that in the event redemption is made by anyone acquiring the legal title after attachment, or after a judgment becomes a lien on the property, such person shall acquire no greater or better right thereby to the property so redeemed than the holder of the legal title at the time of such attachment or judgment.

(2) A creditor having a lien by judgment or mortgage on any portion of the property, or any portion of any part thereof separately sold, subsequent in time to that on which the property was sold. Such creditors, after having redeemed the property, are to be termed redemptioners. [Formerly 23.530]

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

18.572 Redemption by lien creditor. A lien creditor may redeem the property within 60 days from the date of the sale by paying the amount of the purchase money, with interest at the rate of 10 percent per annum thereon from the time of sale, together with the amount of any taxes which the purchaser may have paid thereon, and any other sum which the judgment debtor might be required to pay for redemption, with like interest, and if the purchaser is also a creditor having a lien prior to that of the redemptioner, the amount of such lien, with interest; provided, that if objections to any sale are filed, a lien creditor may redeem within 60 days from the date of the order confirming the sale. [Formerly 23.540]

18.578 Redemption from redemptioner. If the property is redeemed under ORS 18.572, any other lien creditor may, within 60 days from the last redemption, again redeem it, on paying the sum paid on the last

redemption, with interest at the rate of 10 percent per annum thereon from the date of the last preceding redemption in addition, together with any taxes which the last redemptioner may have paid thereon, and, unless the lien of the lien creditor is prior to that of such redemptioner, the amount of such lien, with interest. The property may be again, and as often as any lien creditor or redemptioner is disposed, redeemed from the last previous redemptioner, within 60 days from the date of the last redemption, on paying the sum paid on the last previous redemption, with interest at the rate of 10 percent per annum thereon, from the date of such previous redemption, together with the amount of any taxes paid thereon by such last redemptioner, and the amount of any liens held by such last redemptioner prior to the redemptioner's own, with interest. [Formerly 23.550]

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

18.582 Redemption by mortgagor, judgment debtor or successors; lien of purchaser.

(1) The mortgagor or judgment debtor whose right and title were sold, or the heir, devisee or grantee of the mortgagor or judgment debtor, who has acquired by inheritance, devise, deed, sale, or by virtue of any execution or by any other means, the legal title to the property sold, may, at any time within 180 days after the date of sale, redeem the property; provided that a transfer of the judgment debtor's interest in the property, either before or after sale, shall preclude the judgment debtor from the right to redeem unless the proceeds from the sale are insufficient to satisfy the judgment, in which event the judgment debtor shall have the right to redeem at any time within 10 days after the 180 days herein allowed for redemption, and not otherwise.

(2) Redemption shall be made by paying the amount of the purchase money, with interest thereon at the rate of nine percent per annum from the date of sale, together with the amount of any taxes the purchaser may have been required to pay thereon, and any sums necessarily expended by the purchaser to prevent waste, and also all sums that the purchaser may have been required to pay on prior liens, with interest upon every such payment made by the purchaser at the rate of nine percent per annum from the date of payment thereof; subject to the setoff provided for in subsection (3) of this section.

(3) The mortgagor or judgment debtor, the heir, devisee or grantee of the mortgagor or judgment debtor shall be entitled to a setoff, against the amount necessary to be paid to redeem any property subject to redemption, for all rents, issues and profits accruing from the property sought to be

redeemed while the same was in the possession of the purchaser, upon the mortgagor or judgment debtor giving to the purchaser or the purchaser's successors in interest at least 10 days' written notice to render an accounting for all rents, issues and profits accruing from the property sought to be redeemed. If the property sold is farmland, the purchaser shall have a lien on the first crops sown or grown thereon after the sale, for all sums reasonably expended by the purchaser in plowing, cultivating or seeding the premises in the usual husbandlike manner, which lien shall be superior to all other liens except the liens of laborers for work in cultivating said lands or harvesting the crops grown thereon, as now provided by law. If the premises are other than farmlands, the purchaser shall have a lien on the profits thereof arising during the period of redemption for sums necessarily expended by the purchaser to prevent waste.

(4) Within 10 days after the notice provided for in subsection (3) of this section is given, the purchaser or the purchaser's successors in interest shall file with the sheriff of the county wherein the property sought to be redeemed is situated a verified account of all rents, issues and profits accruing from, and of all sums for which the purchaser claims a lien upon the property sought to be redeemed while the same was in the possession of the purchaser or the purchaser's successors in interest. At any time within five days thereafter the judgment debtor or mortgagor shall file any objection which the judgment debtor or mortgagor may have to said account with the sheriff, who forthwith shall transmit all papers in the sheriff's possession touching upon said foreclosure, sale and redemption to the court having jurisdiction, or to the judge thereof. The sums, if any, due the mortgagor or judgment debtor, or claimed by the purchaser under the purchaser's lien, shall thereafter be determined by the court or the judge thereof at chambers in a summary manner at the time of redemption, and, upon such determination, the judge shall immediately return the files in the case, together with the judge's findings, to the sheriff of such county. Either party may appeal to the Court of Appeals from such determination and decision by the court. An appeal by the redemptioner shall not extend the time for redemption unless the redemptioner shall, in addition to the undertaking otherwise required by law upon appeal, and within the time allowed for filing an undertaking upon appeal, give an undertaking with one or more sureties, who shall justify in like manner as bail upon arrest, that the redemptioner will fully consummate the redemption and pay such sums as shall

finally be determined to be the amounts required for the redemption.

(5) As used in this section, "purchaser" or "purchaser or the purchaser's successors in interest" means the original purchaser or the original purchaser's assigns, or the purchaser's successors in interest or those holding after the purchaser or under the purchaser. [Formerly 23.560]

18.585 Mode of redeeming. The mode of redeeming shall be as provided in this section:

(1) The person seeking to redeem shall give the purchaser or redemptioner not less than two days' nor more than 30 days' notice of an intention to apply to the sheriff for that purpose; if with reasonable diligence personal service of such notice cannot be made within the state, then proof thereof by affidavit filed with the sheriff shall be equivalent to such personal service. At the time and place specified in the notice, which place shall be the office of the sheriff at the courthouse, such person may redeem by paying to the sheriff the sum required. The sheriff shall give the person redeeming a certificate, as in the case of sale on execution, adding therein the sum paid on redemption, from whom redeemed, and the date thereof. The redemptioner shall file the certificate of redemption with the court administrator for the court out of which execution issued. The court administrator shall note the filing of the certificate of redemption in the court register and shall place the certificate in the case file.

(2) A party seeking to redeem shall submit to the sheriff the evidence of the right thereto as follows:

(a) Proof that the notice required by this section was given to the purchaser or redemptioner or waived.

(b) If the party is a lien creditor, a copy of the judgment under which the party claims the right to redeem, certified to by the court administrator for the court where such judgment was entered, or if the party seeks to redeem upon a mortgage, the certificate of the record thereof.

(c) A copy of any assignment necessary to establish the claim, verified by the affidavit of the party or agent; an affidavit by the party or agent showing the amount then actually due on the judgment or mortgage.

(3) If the redemptioner or purchaser has a lien prior to that of the lien creditor seeking to redeem, such redemptioner or purchaser shall submit to the sheriff the like evidence thereof and of the amount due thereon, or the same may be disregarded.

(4) When two or more persons apply to the sheriff to redeem at the same time, the

sheriff shall allow the person having the prior lien to redeem first, and so on. The sheriff shall immediately pay the money over to the person from whom the property is redeemed, if the person attends at the redemption; or if not, at any time thereafter when demanded. When a sheriff wrongfully refuses to allow any person to redeem, the right of the person thereto shall not be prejudiced thereby, and upon submission of the evidence and the tender of the money to the sheriff as provided in this section the sheriff may be required by order of the court or judge thereof to allow such redemption. [Formerly 23.570]

18.588 Court may restrain waste. Until the expiration of the time allowed for redemption, the court, or judge thereof, may restrain the commission of waste on the property by order granted with or without notice, on the application of the purchaser or judgment creditor; but it shall not be deemed waste for the person in possession of the property at the time of sale, or entitled to possession afterwards, during the period allowed for redemption, to continue to use it in the same manner in which it was previously used; or to use it in the ordinary course of husbandry; or to make the necessary repairs to buildings thereon; or to use wood or timber on the property for the repair of fences or for fuel for the family of the person in possession of the property while the person occupies the property. [Formerly 23.580]

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

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

18.594 Possession after sale; right to rents or value of use. The purchaser, from the day of sale until a resale or a redemption, and a redemptioner from the day of redemption until another redemption, shall be entitled to the possession of the property purchased or redeemed, unless the same is in the possession of a tenant holding under an unexpired lease, and in such case, shall be entitled to receive from such tenant the rents or the value of the use and occupation thereof during the same period. [Formerly 23.590]

18.598 Conveyance to purchaser or redemptioner; effect of redemption by judgment debtor. If redemption is not made as prescribed in ORS 18.565 to 18.594, or when redemption is made and a period of 60 days has elapsed without any other redemption, the purchaser or redemptioner shall be entitled to a conveyance from the sheriff. If the judgment debtor redeems at any time before the time for redemption expires, the effect of the sale shall terminate and the judgment debtor shall be restored to the estate of the judgment debtor. If, at any time

prior to the expiration of the statutory period of redemption, it is made to appear to the satisfaction of the court, that the purchaser or redemptioner has acquired the rights of all persons entitled to redeem, the court may direct the sheriff to execute a deed of conveyance to such purchaser or redemptioner forthwith, and upon the execution thereof the title of such purchaser or redemptioner shall become absolute. [Formerly 23.600]

WRITS OF GARNISHMENT (Definitions)

18.600 Definitions. As used in ORS 18.600 to 18.850:

(1) “Check” has the meaning given that term in ORS 73.0104.

(2) “Creditor” means a person to whom a debt is owed by a debtor.

(3) “Debt” means any monetary obligation for which a garnishment may be issued under ORS 18.605.

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

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

(6) “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.

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

(8) “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.

(9) “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.

(10) “Person” includes any public body, as defined in ORS 174.109.

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

(12) “Writ” means a writ of garnishment. [2001 c.249 §1; 2003 c.85 §2; 2003 c.576 §47]

(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 Social Security number or employer identification number, if those numbers are known by the garnishor. A public body, as defined in ORS 174.109, shall not include the Social Security number of the debtor if the disclosure of the Social Security number would violate federal law or any law of this state.

(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]

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) Notwithstanding ORS 18.615, the following are not garnishable property:

(a) Equitable interests.

(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.

(2) 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]

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) 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]

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 sub-

section 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 response 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 claimant under an order recorded pursuant to ORS 671.707 or 701.150, if the 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 701.150.

(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]

(Writs Issued by Court Administrator)

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 \$15. [2001 c.249 §17; 2003 c.85 §6; 2003 c.304 §5]

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 maintains an office for the conduct of business, 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. Delivery under this paragraph is effective upon the receipt of the writ by the person who is apparently in charge of the office.

(b) If the property of the debtor is in the possession, control or custody of a 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. However, 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.

(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. [2001 c.249 §18; 2003 c.85 §7]

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 property of the debtor as described in ORS 18.615. If the garnishee has possession, control or custody of such 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]

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 determine 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. [2001 c.249 §21; 2003 c.576 §54]

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, 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 response is made, 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) 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 response is made, 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]

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 (2); 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]

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 circumstances 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 under ORS chapter 21 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]

(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 require 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 \$1 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]

Note: Section 6, chapter 779, Oregon Laws 2003, provides:

Sec. 6. Section 3 of this 2003 Act [18.736] and the amendments to ORS 18.838 by section 4 of this 2003 Act apply only to writs of garnishment delivered on or after the effective date of this 2003 Act [January 1, 2004]. [2003 c.779 §6]

(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) 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]

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. [2001 c.249 §47; 2003 c.304 §4; 2003 c.576 §69]

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 sale of the property must be conducted by the sheriff:

(a) Within 15 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 15 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]

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) 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.

(4) 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]

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)

18.790 Search fee; garnishment processing fee. (1) Except as provided in subsection (2) of this section, the garnishor must pay a \$10 search fee 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 18.900. A separate search fee must be delivered to the financial institution for each debtor if the writ is issued for more than one debtor under ORS 18.607 (5). If the search fee required by 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.

(2) The search fee provided for in this section need not be paid to a financial institution if the debtor is an employee of the financial institution.

(3) Notwithstanding subsection (1) of this section, a financial institution may enter into an agreement with any state agency authorized to garnish pursuant to ORS 18.900 for periodic billing and payment of garnishee search fees required under this section.

(4) The right of a financial institution to receive the search fee provided for in 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. [2001 c.249 §55; 2003 c.85 §16a]

18.792 Safe deposit boxes. Notwithstanding any other provision of ORS 18.600 to 18.850, but subject to the provisions of ORS 18.900, 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. [2001 c.249 §56]

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 701.150 or writs issued by the administrator, as defined in ORS 25.010, under ORS 18.645. [2001 c.249 §57; 2003 c.576 §71]

(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 dis-

tributed 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 Social Security number or employer identification 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 _____

Issued by the court administrator this
— day of _____, 2__.

COURT ADMINISTRATOR

— Creditor has no knowledge of
Debtor's address

By _____

(Garnishor; check one)

[2001 c.249 §59; 2003 c.85 §17; 2003 c.576 §73]

— Creditor: (Must be filled in if the
court administrator issues writ.)

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.

Name _____
Street address _____
City _____ State _____
Zip Code _____

(2) A debt calculation form must be in
substantially the following form:

— Attorney for Creditor:

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____
Oregon State Bar number _____

_____ COURT
COUNTY OF _____

— Other authorized issuer of writ:

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____

Plaintiff,)
vs.) DEBT
) CALCULATION
) Case No. _____
)

Defendant.)

TO: _____ (Debtor).

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.)

The following amounts have been calcu-
lated to be owing from you to _____
(Creditor). The amounts are owed by reason
of:

I certify that I have read this writ of
garnishment and to the best of my know-
ledge, information and belief, there is good
ground to support issuance of the writ, and
the amount indicated as subject to garnish-
ment is lawfully subject to collection by this
writ.

— A judgment entered against you
dated _____, 2__, in Case No.
_____, _____ Court, _____
County.

— Other debt subject to garnishment
under the law (provide details):

_____, 2__
Signature Date

Oregon State Bar No. (if attorney)

COURT SEAL

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 GARNISH-
MENT MADE BY THE CREDITOR OR
GARNISHOR.

(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 er-
rors made in the writ by the Creditor.)

Original Debt Amount \$ _____
+ Pre-adjudication Interest \$ _____
+ Attorney Fees \$ _____
+ Cost Bill \$ _____
+ Post-adjudication Interest \$ _____
+ Delivery Fee for Writ \$ _____

+ Sheriff's Fees other than Delivery 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 knowledge, 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)

_____, 2____
 Date of Calculation

[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,) GARNISHEE
) RESPONSE
 vs.) Case No. _____
)
 Defendant.)

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 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 is

not due as of the time of this response but will become due within 45 days. 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 of the time of this response. 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.)

— 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]

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 statement 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. 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).

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.

nishment. 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 \$1 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 an-

other 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**

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.

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.

[2001 c.249 §62; 2003 c.85 §19; 2003 c.576 §76; 2003 c.779 §4]

Note: See note under 18.736.

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 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)
 — \$170 (payment of wages weekly)
 — \$340 (payment of wages every two weeks)

- \$368 (payment of wages half-monthly)
- \$731 (payment of wages monthly)
- \$_____ (Any other period longer than one week, including partial payments for less than full pay period) (Multiply \$170 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 \$170. The minimum exemption is \$340 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 \$368. The minimum exemption for a monthly payment is \$731.

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

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) \$170 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) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$7,500).

(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 (home, farm, manufactured dwelling or houseboat) if you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead with land included) or proceeds from its sale for one year.

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

*(12) An automobile, truck, trailer or other vehicle with a value not to exceed \$1,700.

*(13) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

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

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

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

(17) Provisions (food) and fuel for your family for 60 days.

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

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

(22) Health insurance proceeds and disability proceeds of life insurance policies.

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

(24) Federal annuities.

(25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

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

*(27) Elderly rental assistance allowed pursuant to ORS 310.635.

(28) 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.

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

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

(31) Equitable interests in property.

(32) 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 75 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. 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]

18.850 Challenge to garnishment form. A challenge to garnishment form must be in substantially the following form:

_____ COURT
COUNTY OF _____

Plaintiff,

vs.

Defendant.

) CHALLENGE TO
) GARNISHMENT
)
) Case No. _____
)
)
)

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.

Name of Garnishee _____
Address of Garnishee _____

[2001 c.249 §65; 2003 c.85 §22]

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 _____ Signature _____
Address _____ Address _____
Telephone _____ Telephone _____
Number _____ Number _____
(Required) (Required)

TO BE COMPLETED BY GARNISHOR:
Name of Garnishor _____
Address of Garnishor _____

NOTICE OF GARNISHMENT

18.900 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, 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, 657.642, 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) Notwithstanding ORS 18.652, a notice of garnishment and the other items required by subsection (1) of this section may be delivered in person by any employee of the state agency or of the county tax collector authorized by the agency or the county to deliver the notice of garnishment, or by certified mail, return receipt requested. The employee need not be covered by the errors and omissions insurance required in ORS 18.652.

(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 18.902 and 18.905, 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 18.902 and 18.905. 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 18.902 and 18.905, with respect to the form of notices of garnishment. [2001 c.249 §81; 2003 c.85 §23; 2003 c.578 §3; 2003 c.663 §3]

Note: 18.900 to 18.910 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.

18.902 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, 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). 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, in-

cluding 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 18.900 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special notice of garnishment. [2001 c.249 §§82,82a; 2002 s.s.3 c.7 §2; 2003 c.75 §22]

Note: See note under 18.900.

18.905 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).

(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. [2001 c.249 §83]

Note: See note under 18.900.

MISCELLANEOUS

18.910 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 18.900 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 21.325.

(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 21.410.

(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 \$4 for each garnishment.

(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 18.900. [Formerly 29.367; 2003 c.576 §572a]

Note: See note under 18.900.

