

A-Engrossed
House Bill 2359

Ordered by the House May 10
Including House Amendments dated May 10

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Revises laws governing judgments.

A BILL FOR AN ACT

Relating to judgments; creating new provisions; amending ORS 18.005, 18.035, 18.038, 18.042, 18.048, 18.052, 18.075, 18.078, 18.082, 18.112, 18.150, 18.152, 18.165, 18.180, 18.415, 18.428, 18.468, 18.505, 18.512, 18.845, 19.270, 19.275, 19.415, 33.125, 88.080, 107.105, 116.113, 125.090, 156.220 and 416.440 and ORCP 68C; and repealing ORS 18.478.

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

SECTION 1. Sections 2 and 3 of this 2005 Act are added to and made a part of ORS chapter 18.

SECTION 2. The following requirements are the only requirements of this chapter that are jurisdictional for the purposes of appeal of a judgment:

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

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

(3) The court administrator for the circuit court rendering the judgment must note in the register of the court that the judgment document has been filed, as required by ORS 18.058 (1).

SECTION 3. The Chief Justice of the Supreme Court by rule or order may:

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

(2) Authorize or require the use of a limited or supplemental judgment for specified requests for relief that are not governed by other legal authority.

SECTION 4. ORS 18.005 is amended to read:

18.005. 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.

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

1 (3) "Civil action" means any action that is not a criminal action.

2 [(4) "Claim" includes a charge in a criminal action.]

3 [(5) (4) "Court administrator" means a trial court administrator in a circuit court that has a
4 trial court administrator and the clerk of the court in all other courts.

5 [(6) (5) "Criminal action" has the meaning given in ORS 131.005.

6 [(7) (6) "Execution" means enforcement of the money award portion of a judgment or enforce-
7 ment of a judgment requiring delivery of the possession or sale of specific real or personal property,
8 by means of writs of execution, writs of garnishment and other statutory or common law writs or
9 remedies that may be available under the law.

10 [(8) (7) "General judgment" means the judgment entered by a court that decides all [claims]
11 **requests for relief** in the action except:

12 (a) A [claim] **request for relief** previously decided by a limited judgment; and

13 (b) A [claim] **request for relief** that may be decided by a supplemental judgment.

14 [(9) (8) "Judgment" means the concluding decision of a court on one or more [claims] **requests**
15 **for relief** in one or more actions, as reflected in a judgment document.

16 [(10) (9) "Judgment document" means a writing in the form provided by ORS 18.038 that in-
17 corporates a court's judgment.

18 [(11) (10) "Judgment lien" means:

19 (a) The effect of a judgment on real property as described in ORS 18.150 (2) and (3) for the
20 county in which the judgment is entered, and as described in ORS 18.152 (2) and (3) for a county in
21 which the judgment is recorded under ORS 18.152[. "*Judgment lien*" includes any]; **and**

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

23 [(12) (11) "Judgment remedy" means:

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

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

26 (12) "**Legal authority**" means:

27 (a) **A statute;**

28 (b) **An Oregon Rule of Civil Procedure;**

29 (c) **A rule or order of the Chief Justice of the Supreme Court adopted under section 3**
30 **of this 2005 Act; and**

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

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

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

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

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

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

44 (14) "Money award" means a judgment or portion of a judgment that requires the payment of
45 money.

1 **(15) “Request for relief” means a claim, a charge in a criminal action or any other re-**
2 **quest for a determination of the rights and liabilities of one or more parties in an action that**
3 **a legal authority allows the court to decide by a judgment.**

4 [(15)] **(16) “Supplemental judgment” means a judgment that [by law] may be rendered after a**
5 **general judgment [has been entered in the action and that affects a substantial right of a party] pur-**
6 **suant to a legal authority.**

7 [(16)] **(17) “Support arrearage lien” means a lien that attaches to real property under the pro-**
8 **visions of ORS 18.150 (3) or 18.152 (3).**

9 [(17)] **(18) “Support award” means a money award or agency order that requires the payment**
10 **of child or spousal support [in installments].**

11 **SECTION 5. Section 6 of this 2005 Act is added to and made a part of ORS chapter 18.**

12 **SECTION 6. The provisions of this chapter do not impose any requirement that a court**
13 **use a judgment for the court’s concluding decision on a request for relief if a legal authority**
14 **allows or requires that the court decide the request for relief by order or other means.**

15 **SECTION 7. Sections 2 and 6 of this 2005 Act and the amendments to ORS 18.005 by**
16 **section 4 of this 2005 Act apply to all judgments entered on or after January 1, 2004.**

17 **SECTION 8. Section 9 of this 2005 Act is added to and made a part of ORS chapter 18.**

18 **SECTION 9. (1) If the administrator, as defined in ORS 25.010, eliminated a judgment lien**
19 **document by filing a release of lien document with the court administrator under ORS 18.200,**
20 **the administrator may reinstate the lien by recording a notice of reinstatement in the**
21 **County Clerk Lien Record for the county where the judgment was entered.**

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

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

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

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

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

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

37 **(6) A notice of reinstatement must be signed by the administrator as defined in ORS**
38 **25.010, or by an attorney who represents the administrator. The signature must be witnessed**
39 **by a notary public.**

40 **SECTION 10. A notice of reinstatement may be recorded under section 9 of this 2005 Act**
41 **for any release of lien, whether filed or recorded before, on or after the effective date of this**
42 **2005 Act.**

43 **SECTION 11. ORS 18.035 is amended to read:**

44 **18.035. (1) In a civil action, the court may designate one of the parties to prepare a proposed**
45 **judgment document. If the court does not designate a party to prepare a proposed judgment docu-**

1 ment, the prevailing party shall prepare a proposed judgment document. If more than one party has
 2 prevailed in the action, the prevailing parties may agree to designate one of the prevailing parties
 3 to prepare a proposed judgment document. Nothing in this subsection prevents any party to a civil
 4 action from preparing and submitting a proposed judgment document to the court.

5 (2) In criminal actions and juvenile proceedings under ORS chapters **419A**, 419B and 419C, the
 6 judge shall ensure that a judgment document complying with ORS 18.038 and 18.048 is created and
 7 filed.

8 **SECTION 12.** ORS 18.042 is amended to read:

9 18.042. (1) [*As a condition of creating a judgment lien,*] The judgment document for a judgment
 10 in a civil action that includes a money award must contain a separate section clearly labeled as a
 11 money award. Any judgment in a civil action that includes a money award, but does not contain a
 12 separate section clearly labeled as a money award, does not create a judgment lien but may be en-
 13 forced by any other judgment remedy.

14 (2) [*As a condition of creating a judgment lien,*] The [*judgment document for a judgment in a civil*
 15 *action that includes a money award*] **separate section required by subsection (1) of this section**
 16 must include all of the following:

17 (a) The name and address of each judgment creditor and the name, address and telephone num-
 18 ber of any attorney who represents one or more of the judgment creditors.

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

20 [(i)] **(A) The address of each judgment debtor;**

21 [(ii)] **(B) The date of birth of each judgment debtor;**

22 [(iii)] **(C) The Social Security number or tax identification number of each judgment debtor;**

23 [(iv)] **(D) The driver license number of each judgment debtor and the name of the state [of**
 24 *issuance] that issued the license; and*

25 [(v)] **(E) The name of any attorney for each judgment debtor.**

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

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

32 (d) The amount of the money award.

33 (e) Any interest owed as of the date the judgment is entered in the register, either as a specific
 34 amount or as accrual information, including the rate or rates of interest, the balance or balances
 35 upon which interest accrues, the date or dates from which interest at each rate on each balance
 36 runs, and whether interest is simple or compounded and, if compounded, at what intervals.

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

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

43 (h) If the judgment requires the payment of costs and disbursements or attorney fees, a state-
 44 ment indicating that the award is made, any specific amounts awarded, a clear identification of the
 45 specific [*claims*] **requests for relief** for which any attorney fees are awarded and the amount of

1 attorney fees awarded for each *[claim]* **request for relief.**

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

5 (4) The separate section required by subsection [(2)] (1) of this section must be placed imme-
6 diately above the judge's or court administrator's signature. The separate section must be clearly
7 labeled at its beginning as a money award. If the judgment includes a support award, the label of
8 the separate section must so indicate. Except for information described in ORS 24.290, the separate
9 section of the judgment document may not contain any provision except the information required
10 by this section.

11 *[(5) The requirements of this section are not jurisdictional for purposes of appellate review.]*

12 (5) **Notwithstanding subsection (2) of this section, in proceedings under ORS 107.085 and**
13 **107.485 the Social Security number of a judgment debtor must be provided by the judgment**
14 **creditor in the manner established by the State Court Administrator under ORS 107.840.**

15 (6) **Notwithstanding subsection (2) of this section, a public body, as defined in ORS**
16 **174.109, need not include the Social Security number or driver license number of a judgment**
17 **debtor if disclosure of the Social Security number or driver license number violates federal**
18 **law or any law of this state.**

19 [(6)] (7) The provisions of this section do not apply to foreign judgments that are filed with a
20 court under ORS 24.115 or 110.405. If a foreign judgment is filed with the court under ORS 24.115,
21 the separate statement required by ORS 24.125 must be filed with the foreign judgment *[as a condi-*
22 *tion of the judgment creating a judgment lien].*

23 **SECTION 13.** ORS 18.048 is amended to read:

24 18.048. *[(1) If a judgment document in a criminal action contains a money award, whether by*
25 *reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and*
26 *disbursements or any other monetary obligation, and the judgment is for conviction of a felony or*
27 *misdemeanor, the court administrator shall note in the register that the judgment creates a judgment*
28 *lien if the judgment document complies with this section. If the judgment is for conviction of a violation*
29 *as described in ORS 153.008, the court administrator shall note in the register that the judgment cre-*
30 *ates a judgment lien only if the court has ordered that the judgment create a judgment lien.]*

31 (1) **Except as provided in this section, the judgment document in a criminal action that**
32 **contains a money award, whether by reason of a fine, restitution, forfeiture of security under**
33 **ORS 135.280, a fee, an assessment, costs and disbursements or any other monetary obli-**
34 **gation, must contain a separate section clearly labeled as a money award.**

35 (2) *[As a condition of creating a judgment lien, the judgment document for a judgment in a crimi-*
36 *nal action that includes a money award must contain a separate section setting forth the money award,*
37 *must meet the requirements of ORS 18.038 and must]* **The separate money award section described**
38 **by subsection (1) of this section must** contain the following information:

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

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

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

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

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

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

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

18 [(4)] (5) A judgment in a criminal action that contains a money award is a judgment in favor
19 of the state and may be enforced only by the state.

20 **SECTION 14.** ORS 18.052 is amended to read:

21 18.052. (1) A judge rendering a judgment shall file with the court administrator a judgment
22 document that incorporates the judgment. The judge must sign the judgment document unless the
23 court administrator is authorized by law to sign the judgment document. Before signing a judgment
24 document, the judge shall ensure that all requirements imposed by law for entry of the judgment
25 have been fulfilled, including the making of any written findings of fact or conclusions of law. If a
26 proposed judgment document submitted under ORS 18.035 does not comply with the requirements
27 of ORS 18.038, 18.042 and 18.048, the judge may not sign the judgment document. Unless the judg-
28 ment is exempt under ORS 18.038 (2), the judge shall ensure that the title of the judgment document
29 indicates whether the judgment is a limited judgment, general judgment or supplemental judgment.
30 If the judgment is a limited judgment rendered under the provisions of ORCP 67 B, the judge must
31 determine that there is no just reason for delay, but the judgment document need not reflect that
32 determination if the title of the judgment document indicates that the judgment is a limited judg-
33 ment.

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

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

38 **SECTION 15.** ORS 18.075 is amended to read:

39 18.075. (1) A judgment is entered in circuit court when a court administrator notes in the reg-
40 ister that a judgment document has been filed with the court administrator.

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

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

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

1 (c) Whether the judgment includes a money award.

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

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

5 (a) The name of all judgment debtors.

6 (b) The name of all judgment creditors.

7 (c) The amount of the money award.

8 (d) Whether the money award *[is]* **includes** a support award.

9 (4) If the court administrator makes a notation of judgment in the separate record required by
10 subsection (3) of this section, the court administrator shall thereafter also note in the separate re-
11 cord:

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

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

14 (c) The date of any decision on appeal.

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

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

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

18 (5) The court administrator shall enter a judgment in the register within 24 hours after the
19 judgment document is filed with court administrator, excluding Saturdays and legal holidays. If the
20 court administrator is not able to enter the judgment within the time prescribed in this subsection,
21 or fails to do so, the court administrator shall enter the judgment as soon as practicable thereafter.

22 (6) Except as provided in ORS 18.058, and in ORCP 69 B(1) for judgments by default, the court
23 administrator shall be subject to the direction of the court in entering judgments in the register.

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

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

28 (9) The State Court Administrator shall ensure that the register, and the separate record re-
29 quired by subsection (3) of this section, be established and maintained in a uniform manner in the
30 circuit courts.

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

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

35 **SECTION 16.** ORS 18.078 is amended to read:

36 18.078. (1) Upon entering a judgment in a civil action, or entry of any corrected judgment under
37 ORS 18.107, the court administrator shall mail the notice described in subsection (2) of this section
38 to the attorneys of record for each party that is not in default for failure to appear. If a party does
39 not have an attorney of record, and is not in default for failure to appear, the court administrator
40 shall mail the notice to the party. The court administrator shall note in the register that the notice
41 required by this section was mailed as required by this section.

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

43 (a) The date the judgment was entered.

44 (b) Whether the judgment was entered as a limited judgment, a general judgment or a supple-
45 mental judgment.

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

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

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

7 (4) This section does not apply to judgments in juvenile proceedings under ORS chapter **419A**,
8 **419B** or **419C**, civil commitment proceedings, probate proceedings, adoptions or guardianship or
9 conservatorship proceedings under ORS chapter 125.

10 **SECTION 17.** ORS 18.082 is amended to read:

11 18.082. (1) Upon entry of a judgment, the judgment:

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

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

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

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

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

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

21 (a) Is not a judgment;

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

24 (c) Reflects an express determination by the court that the decision be [*final*] **conclusive** as to
25 the [*claim or claims*] **requests for relief that are** resolved.

26 (3) Upon entry of a general judgment, any [*claim*] **request for relief** in the action that is not
27 decided by the general judgment or by a previous limited judgment, that has not been incorporated
28 into the general judgment under subsection (2) of this section, or that cannot be decided by a sup-
29 plemental judgment, is dismissed with prejudice unless the judgment provides that the dismissal is
30 without prejudice.

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

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

37 (6) If a document labeled as a decree is filed with the court administrator, or a judgment docu-
38 ment is filed with the court administrator that does not indicate whether the judgment is a limited,
39 general or supplemental judgment, and the court administrator fails to comply with ORS 18.058 and
40 makes an entry in the register indicating that a judgment has been filed with court administrator,
41 the document has the effect of a general judgment entered in circuit court.

42 **SECTION 18.** ORS 18.112 is amended to read:

43 18.112. (1) Upon motion of any party, the court may enter a corrected judgment under ORS
44 18.107 that changes the designation of a judgment from a general judgment to a limited judgment
45 if the moving party establishes that:

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

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

7 (2) A motion under subsection (1) of this section must be filed within the time provided by ORCP
8 71 B.

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

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

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

19 **SECTION 19.** ORS 18.150 is amended to read:

20 18.150. (1) If a judgment document filed with a court administrator under ORS 18.075 (2) includes
21 a money award and complies with ORS 18.042 (1) or 18.048 (1), the court administrator shall note
22 in the register of a circuit court that the judgment creates a judgment lien unless:

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

26 (b) The judgment is entered in a criminal action for conviction of a violation, and the court does
27 not order under ORS 18.048 [(1)] (4) that the judgment creates a judgment lien;

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

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

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

33 (a) When the judgment is entered, the judgment lien attaches to all real property of the judg-
34 ment debtor in the county at that time; and

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

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

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

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

45 [(b)] (c) When an installment becomes due under the terms of the support award and is not paid,

1 a support arrearage lien attaches to all real property that the judgment debtor thereafter acquires
2 in the county for the purpose of enforcing the unpaid installment, and remains attached to that
3 property until satisfaction is made for the installment or the judgment lien arising from support
4 award portion of the judgment expires.

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

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

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

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

16 **SECTION 20.** ORS 18.152 is amended to read:

17 18.152. (1) At any time after a judgment that creates a judgment lien is entered under ORS
18 18.150 and before the expiration of the judgment remedies for the judgment, a judgment creditor may
19 create a judgment lien for the judgment in any other county of this state by recording the judgment
20 in the County Clerk Lien Record for that county. The judgment may be recorded by recording a
21 certified copy of the judgment document or a lien record abstract for the judgment.

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

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

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

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

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

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

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

45 (4)(a) If a certificate of extension is filed under ORS 18.182, and the certificate is filed before

1 the judgment is recorded under this section, a judgment creditor may record a certified copy of the
2 certificate or a lien record abstract for the certificate with the judgment. The recording shall act
3 to extend the judgment lien of a judgment, and any support arrearage lien, in the county for the time
4 provided in ORS 18.180 to 18.192.

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

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

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

21 **SECTION 21.** ORS 18.165 is amended to read:

22 18.165. (1) *[A conveyance of real property, or any portion thereof, or interest therein, shall be void*
23 *as against the lien of a judgment, unless the conveyance is recorded at the time the judgment is entered,*
24 *or at the time the judgment is recorded under ORS 18.152.]* **If a judgment with lien effect under**
25 **ORS 18.150, 18.152 or 18.158 is entered or recorded in a county before a conveyance, or a**
26 **memorandum of a conveyance, of real property of the debtor is recorded in that county, the**
27 **conveyance of the judgment debtor's interest is void as against the lien of the judgment un-**
28 **less:**

29 (a) **The grantee under the conveyance is a purchaser in good faith for a valuable consid-**
30 **eration and the conveyance or memorandum of the conveyance is recorded within 20 days**
31 **after delivery and acceptance of the conveyance, excluding Saturdays and legal holidays un-**
32 **der ORS 187.010 and 187.020;**

33 (b) **The judgment creditor has actual notice, record notice or inquiry notice of a**
34 **conveyance to a grantee when the judgment is entered or recorded in the county;**

35 (c) **The conveyance is a fulfillment deed entitled to priority over the judgment under ORS**
36 **93.645; or**

37 (d) **The conveyance is a mortgage, trust deed or other security instrument given to se-**
38 **cure financing for the purchase of the real property described in the conveyance.**

39 (2) **For the purpose of subsection (1)(a) of this section, a memorandum of conveyance**
40 **must contain the date of the instrument being memorialized, the names of the parties, a le-**
41 **gal description of the real property involved and a description of the nature of the interest**
42 **created. The memorandum must be signed by the person from whom the interest is intended**
43 **to pass, and be acknowledged or proved in the manner provided for the acknowledgment or**
44 **proof of deeds.**

45 (3) **As used in this section:**

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

6 (b) "Grantee" means:

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

9 (B) Any other person to whom the interest that is the subject of a conveyance is intended
10 to pass.

11 **SECTION 22.** ORS 18.180 is amended to read:

12 18.180. (1) Judgment remedies for a judgment expire upon full satisfaction of the money award
13 portion of the judgment.

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

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

19 (4) Judgment remedies for a judgment in a criminal action expire 20 years after the entry of the
20 judgment.

21 (5) Except as provided in ORS 18.192, judgment remedies for the child support award portion
22 of a judgment, and any lump sum [money] support award for [unpaid] child support [installments],
23 expire 25 years after the entry of the judgment that first establishes the support obligation.

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

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

33 (7)(a) If a money award in a judgment under ORS 107.105 (1)(f) provides for a future payment
34 of money, and the future payment does not become due for 10 or more years after the judgment is
35 entered, judgment remedies for the portion of the judgment providing for future payment expire 10
36 years after the date on which the future payment becomes due. At any time before the judgment
37 remedies for a money award described in this subsection expire, judgment remedies for the portion
38 of the judgment providing for a future payment may be extended as provided in ORS 18.182.

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

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

42 **SECTION 23.** ORS 18.415 is amended to read:

43 18.415. (1) Any holder of an interest in a judgment described in a notice sent pursuant to ORS
44 18.412 may file[, with the court administrator for the court in which the judgment was entered,] ob-
45 jections to the notice and a request for a hearing upon the application for an order made pursuant

1 to ORS 18.422 (4). **The objections and the request for a hearing must be filed in the court that**
 2 **entered the judgment.** The objections and [a] **the** request for hearing must be filed prior to the
 3 date specified in the notice and must indicate the grounds for the objections and include the address
 4 to which notice of any hearing upon request for an order may be sent.

5 (2)(a) If the holder of a judgment admits the validity of the homestead exemption and objects
 6 only that the value placed upon the property in the notice is or was less than the fair market value
 7 of the property on the date of the notice or petition in bankruptcy, whichever is applicable, the
 8 court shall try the issue of fair market value without formal pleadings. Each party may offer evi-
 9 dence of fair market value, but the holder of the judgment has the burden of proving the fair market
 10 value.

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

14 (3) If the court finds that the fair market value of the property specified in the notice reasonably
 15 approximates the fair market value of the property on the date of the notice or petition in bank-
 16 ruptcy, whichever is applicable, or, if other issues are raised by the objections and are decided
 17 against the holder of the judgment, the court shall make an order that the property is not subject
 18 to the lien of the objecting judgment holder. In all other cases, the application for an order shall
 19 be dismissed and the lien upon the property shall not be affected by the notice.

20 **SECTION 24.** ORS 18.428 is amended to read:

21 18.428. (1) A mobile home, and the property upon which the mobile home is situated, that is the
 22 actual abode of and occupied by the owner, or the owner's spouse, parent or child, when that mobile
 23 home is occupied as a sole residence and no other homestead exemption exists, shall be exempt from
 24 execution and from liability in any form for the debts of the owner to the value of \$23,000, except
 25 as otherwise provided by law. When two or more members of a household are debtors whose inter-
 26 ests in the homestead are subject to sale on execution, the lien of a judgment or liability in any
 27 form, their combined exemptions under this section may not exceed \$30,000. The exemption shall be
 28 effective without the necessity of a claim thereof by the judgment debtor.

29 (2) The exemption provided for in subsection (1) of this section is not impaired by temporary
 30 removal or absence with the intention to reoccupy the mobile property as a home, nor by the sale
 31 thereof, but shall extend to the proceeds derived from such sale up to \$23,000 or \$30,000, whichever
 32 amount is applicable under subsection (1) of this section, while the proceeds are held for a period
 33 not exceeding one year and with the intention to procure another mobile **home** or other homestead
 34 therewith.

35 (3) Upon the issuance of an order authorizing sale as provided in ORS 18.536, the levying officer
 36 may proceed to advertise and sell the premises and, if the homestead exemption applies, out of the
 37 proceeds pay the mobile home owner the sum of \$23,000 or \$30,000, whichever amount is applicable
 38 under subsection (1) of this section, and apply the balance of the proceeds on the execution. How-
 39 ever, no sale shall be made where the homestead exemption applies unless the sum bid for the
 40 property is in excess of the sum of the costs of sale and \$23,000 or \$30,000, whichever amount is
 41 applicable. If no such bid is received, the expense of the advertising and preparation for sale shall
 42 be borne by the petitioner.

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

1 judgment recovered for the purchase price.

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

7 (6) When the owner of a homestead under this section has been granted a discharge in bank-
8 ruptcy or has conveyed the property, the value thereof, for the purpose of determining a leviable
9 interest in excess of the homestead exemption, shall be the value on the date of the petition in
10 bankruptcy, whether the value is determined in the bankruptcy proceedings or not, or on the date
11 the conveyance becomes effective, whichever shall first occur.

12 (7) Except as provided in subsection (9) of this section, no mobile home, or property upon which
13 the mobile home is situated, that is the actual abode of and occupied by the judgment debtor, or that
14 is the actual abode of and occupied by a spouse, dependent parent or dependent child of the judg-
15 ment debtor, shall be sold on execution to satisfy a judgment that at the time of entry does not ex-
16 ceed \$3,000. The judgment shall remain a lien upon the real property owned by the judgment debtor
17 and upon which the mobile home is situated, and the mobile home and real property upon which it
18 is situated may be sold on execution:

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

20 (b) At any time after the mobile home or real property is no longer the actual abode of and
21 occupied by the judgment debtor or the spouse, dependent parent or dependent child of the judgment
22 debtor.

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

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

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

32 **SECTION 24a.** ORS 18.468 is amended to read:

33 18.468. (1) The court administrator shall issue writs of execution. The writ must be directed to
34 the sheriff and must contain the name of the court, the names of the parties to the action, and the
35 title of the action. **The writ must contain the name and address of the person requesting is-**
36 **suance of the writ.** The writ must describe the judgment and, if the writ of execution is issued for
37 application of property of the judgment debtor against a money award, the writ must state the
38 amount due on the money award when the writ is issued.

39 (2) If the judgment requires that specific real or personal property of the judgment debtor be
40 sold, the writ must particularly describe the property and direct the sheriff to sell the specified
41 property and apply the proceeds as directed by the judgment.

42 (3) If the judgment requires the delivery of the possession of real or personal property, the writ
43 must direct the sheriff to deliver the possession of the property. The writ must particularly describe
44 the property and specify the party to whom the property is to be delivered.

45 (4) If the judgment does not require that specific real or personal property of the judgment

1 debtor be sold or delivered, the writ may direct the sheriff to sell the real or personal property
 2 specified by the judgment creditor in instructions given to the sheriff. The judgment creditor must
 3 provide the sheriff with instructions that particularly describe the personal property to be seized
 4 and indicate where the property may be found. The judgment creditor must provide the sheriff with
 5 instructions that particularly describe any real property to be sold.

6 (5) Upon issuance of a writ of execution to the sheriff of any county, the judgment creditor must
 7 record a certified copy of the writ or a lien record abstract of the writ in the County Clerk Lien
 8 Record for the county if the writ of execution or the accompanying instructions to the sheriff re-
 9 quire the sale of real property. The recorded documents must contain a legal description of the real
 10 property. The recording of the writ or lien record abstract in any county in which a judgment lien
 11 does not exist under ORS 18.150 or 18.152, or in a county in which a notice of pendency under ORS
 12 93.740 has not been previously recorded, has the same effect as recording a notice of pendency under
 13 ORS 93.740.

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

16 (7) When issuing a writ of execution, the court administrator may rely on the information pro-
 17 vided by the person seeking issuance of the writ and is not liable for any errors or omissions in that
 18 information.

19 **SECTION 25.** ORS 18.505 is amended to read:

20 18.505. (1) Except as provided in subsection (2) of this section, a judgment debtor may use a
 21 challenge to execution form only to claim such exemptions under a writ of execution as are per-
 22 mitted by law.

23 (2) A judgment debtor may not use a challenge to execution form to challenge execution on
 24 residential real property or a mobile home of the debtor if the judgment creditor has obtained an
 25 order under ORS 18.536 authorizing the sale or if the judgment directs the sale or delivery of spe-
 26 cific property.

27 (3) Any person other than a judgment debtor who has an interest in any personal property
 28 seized by a sheriff under ORS 18.476, or in any real property or a mobile home for which a notice
 29 of an execution sale has been given under ORS 18.532, may assert that interest by delivering a
 30 challenge to execution in the manner provided by subsection (4) of this section.

31 (4) A person may make a challenge to [an] a writ of execution by completing the challenge to
 32 execution form provided in ORS 18.512, or a substantially similar form, and by delivering, in person
 33 or by first class mail, the original of the completed form to the court administrator for the court
 34 identified in the writ of execution and a copy of the challenge to the person who requested issuance
 35 of the writ.

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

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

42 **SECTION 25a.** ORS 18.512 is amended to read:

43 18.512. (1) The challenge to execution form described in this section does not expand or restrict
 44 the law relating to exempt property. A determination as to whether property is exempt from at-
 45 tachment or execution must be made by reference to other law. The form provided in this section

1 may be modified to provide more information or to update the notice based on subsequent changes
2 in exemption laws.

3 (2) A challenge to execution form must be in substantially the following form:
4

5
6 _____ COURT

7 COUNTY OF _____

8
9 _____) CHALLENGE TO
10 Plaintiff,) EXECUTION

11)
12 vs.) Case No. _____

13)
14 _____)
15 Defendant.)

16
17 THIS FORM MAY BE USED BY THE DEBTOR ONLY TO CLAIM SUCH EXEMPTIONS
18 FROM EXECUTION AS ARE PERMITTED BY LAW.

19
20 THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM
21 AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

22
23 THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.
24

25 I/We claim that the following described property or money is exempt from execution:
26

27 _____
28 _____

29
30
31 I/We believe this property is exempt from execution because (the Notice of Exempt Property at
32 the end of this form describes most types of property that you can claim as exempt from execution):

33 _____
34 _____
35 _____

36
37
38 I am a person other than the Debtor and I have the following interest in the property:
39

40 _____
41 _____

42
43
44 Name _____ Name _____

45 Signature _____ Signature _____

1 Address _____ Address _____
2 _____
3 Telephone Telephone
4 Number _____ Number _____
5 (Required) (Required)
6
7

8 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

9 You may seek to reclaim your exempt property by doing the following:

10 (1) Fill out the Challenge to Execution form that you received with this notice.

11 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
12 shown on the writ of execution.

13 **(3) Mail or deliver a copy of the Challenge to Execution form to the person who requested**
14 **issuance of the writ at the address shown on the writ of execution.**

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

18 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY TO CLAIM SUCH EX-
19 EMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.
20

21 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
22 VALIDITY OF THE DEBT.
23

24 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
25 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
26 to are listed in ORS 18.518.
27

28 NOTICE OF EXEMPT PROPERTY
29

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

33 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
34 FULLY.

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

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

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

40 (b) \$170 per workweek.

41 (2) Social Security benefits.

42 (3) Supplemental Security Income (SSI).

43 (4) Public assistance (welfare).

44 (5) Unemployment benefits.

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

- 1 (7) Workers' compensation benefits.
- 2 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and
3 disability benefits when placed in a checking or savings account (up to \$7,500).
- 4 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
5 for your support or the support of any of your dependents.
- 6 (10) A homestead (home, farm, manufactured dwelling or houseboat) if you live in it, to the value
7 of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead
8 with land included) or proceeds from its sale for one year.
- 9 (11) Household goods, furniture, radios, a television set and utensils with a combined value not
10 to exceed \$3,000.
- 11 *(12) An automobile, truck, trailer or other vehicle with a value not to exceed \$1,700.
- 12 *(13) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
13 occupation, with a combined value not to exceed \$3,000.
- 14 *(14) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 15 *(15) Wearing apparel, jewelry and other personal items with a combined value not to exceed
16 \$1,800.
- 17 (16) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
18 and their food for 60 days.
- 19 (17) Provisions (food) and fuel for your family for 60 days.
- 20 (18) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
21 may not exceed \$1,000.
- 22 (19) Public or private pensions.
- 23 (20) Veterans' benefits and loans.
- 24 (21) Medical assistance benefits.
- 25 (22) Health insurance proceeds and disability proceeds of life insurance policies.
- 26 (23) Cash surrender value of life insurance policies not payable to your estate.
- 27 (24) Federal annuities.
- 28 (25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
29 emption as wages).
- 30 (26) Professionally prescribed health aids for you or any of your dependents.
- 31 *(27) Elderly rental assistance allowed pursuant to ORS 310.635.
- 32 *(28) Your right to receive, or property traceable to:
 - 33 *(a) An award under any crime victim reparation law.
 - 34 *(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
35 jury suffered by you or an individual of whom you are a dependent.
 - 36 *(c) A payment in compensation of loss of future earnings of you or an individual of whom you
37 are or were a dependent, to the extent reasonably necessary for your support and the support of
38 any of your dependents.
- 39 (29) Amounts paid to you as an earned income tax credit under federal tax law.
- 40 (30) Interest in personal property to the value of \$400, but this cannot be used to increase the
41 amount of any other exemption.
- 42 (31) Equitable interests in property.
- 43 Note: If two or more people in your household owe the claim or judgment, each of them may
44 claim the exemptions marked by an asterisk (*).
- 45

1
2 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
3 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
4 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
5 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
6 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
7 obligation.

8
9
10 **SECTION 25b.** ORS 18.845 is amended to read:

11 18.845. A notice of exemptions form must be in substantially the form set forth in this section.
12 Nothing in the notice form described in this section is intended to expand or restrict the law re-
13 lating to exempt property. A determination as to whether property is exempt from execution, at-
14 tachment and garnishment must be made by reference to other law. The form provided in this
15 section may be modified to provide more information or to update the notice based on subsequent
16 changes in exemption laws.

17
18
19 NOTICE OF EXEMPT PROPERTY
20 AND INSTRUCTIONS FOR
21 CHALLENGE TO GARNISHMENT
22

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

26 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
27 FULLY.

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

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

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

33 (b) \$170 per workweek.

34 (2) Social Security benefits.

35 (3) Supplemental Security Income (SSI).

36 (4) Public assistance (welfare).

37 (5) Unemployment benefits.

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

39 (7) Workers' compensation benefits.

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

42 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
43 for your support or the support of any of your dependents.

44 (10) A homestead (home, farm, manufactured dwelling or houseboat) if you live in it, to the value
45 of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead

1 with land included) or proceeds from its sale for one year.

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

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

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

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

8 *(15) Wearing apparel, jewelry and other personal items with a combined value not to exceed
9 \$1,800.

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

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

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

15 (19) Public or private pensions.

16 (20) Veterans' benefits and loans.

17 (21) Medical assistance benefits.

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

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

20 (24) Federal annuities.

21 (25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
22 emption as wages).

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

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

25 (28) Your right to receive, or property traceable to:

26 (a) An award under any crime victim reparation law.

27 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
28 jury suffered by you or an individual of whom you are a dependent.

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

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

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

35 (31) Equitable interests in property.

36 (32) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
37 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
38 Calculation form.

39
40 Note: If two or more people in your household owe the claim or judgment, each of them may
41 claim the exemptions marked by an asterisk (*).

42
43
44 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
45 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt

1 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
2 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
3 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
4 obligation.

5
6 **YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**

7 You may seek to reclaim your exempt property by doing the following:

8 (1) Fill out the Challenge to Garnishment form that you received with this notice.

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

17 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
18 before applying it to the Creditor's use. You may be able to keep the property from being used by
19 the Creditor by promptly following (1) and (2) above.

20
21 You should be prepared to explain your exemption in court. If you have any questions about the
22 garnishment or the debt, you should see an attorney.

23 **YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-**
24 **ING PURPOSES:**

25 (1) To claim such exemptions from garnishment as are permitted by law.

26 (2) To assert that property is not garnishable property under ORS 18.618.

27 (3) To assert that the amount specified in the writ of garnishment as being subject to
28 garnishment is greater than the total amount owed.

29
30 **YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE**
31 **VALIDITY OF THE DEBT.**

32 **IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-**
33 **JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE.** Penalties
34 that you could be subject to are listed in ORS 18.715.

35 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
36 payments under the garnishment to the court, and the Garnishor may be required to pay to the
37 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
38 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
39 their responsibilities, see ORS 18.705 and 18.708.

40
41
42 **SECTION 25c.** ORS 19.270 is amended to read:

43 19.270. (1) The Supreme Court or the Court of Appeals has jurisdiction of the cause when the
44 notice of appeal has been served and filed as provided in ORS 19.240, 19.250 and 19.255. The trial
45 court may exercise those powers in connection with the appeal as are conferred by law, and retains

1 jurisdiction in the matter for the following purposes:

2 (a) Deciding requests for attorney fees, costs and disbursements or expenses pursuant to ORCP
3 68 or other provision of law.

4 (b) Enforcing the judgment, subject to any stay of the judgment.

5 (2) The following requirements of ORS 19.240, 19.250 and 19.255 are jurisdictional and may not
6 be waived or extended:

7 (a) Service of the notice of appeal on all parties identified in the notice of appeal as adverse
8 parties or, if the notice of appeal does not identify adverse parties, on all parties who have appeared
9 in the action, suit or proceeding, as provided in ORS 19.240 (2)(a), within the time limits prescribed
10 by ORS 19.255.

11 (b) Filing of the original of the notice of appeal with the Court of Appeals as provided in ORS
12 19.240 (3), within the time limits prescribed by ORS 19.255.

13 (3) After the Supreme Court or the Court of Appeals has acquired jurisdiction of the cause, the
14 omission of a party to perform any of the acts required in connection with an appeal, or to perform
15 such acts within the time required, shall be cause for dismissal of the appeal. In the event of such
16 omission, the court, on motion of a party or on its own motion may dismiss the appeal. An appeal
17 dismissed on a party's motion or on the court's own motion may be reinstated upon showing of good
18 cause.

19 (4) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction, with leave
20 of the appellate court, to enter an appealable judgment if the appellate court determines that:

21 (a) At the time of the filing of the notice of appeal the trial court intended to enter an
22 appealable judgment; and

23 (b) The judgment from which the appeal is taken is defective in form or was entered at a time
24 when the trial court did not have jurisdiction of the cause under subsection (1) of this section, or
25 the trial court had not yet entered an appealable judgment.

26 (5) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction:

27 (a) To enter an order or supplemental judgment under ORCP 71 or ORS 19.275, 107.105 (4) or
28 107.452; and

29 (b) To enter an order or supplemental judgment for the purpose of implementing a settlement
30 as allowed by ORS 19.410 (3).

31 (6) Jurisdiction of the appellate court over a cause ends when a copy of the appellate judgment
32 is mailed by the State Court Administrator to the court from which the appeal was taken pursuant
33 to ORS 19.450, except that the appellate court may:

34 (a) Recall the appellate judgment as justice may require;

35 (b) Stay enforcement of the appellate judgment to allow the filing of a petition for writ of
36 certiorari to the Supreme Court of the United States; and

37 (c) Stay enforcement of the appellate judgment pending disposition of the matter by the Supreme
38 Court of the United States or for such other time as the Oregon appellate court may deem appro-
39 priate.

40 **(7) If a limited or supplemental judgment is appealed, the jurisdiction of the appellate**
41 **court is limited to the matters decided by the limited or supplemental judgment, and the trial**
42 **court retains jurisdiction over all other matters in the proceeding.**

43 [(7)] (8) After jurisdiction of the appellate court ends, all orders which may be necessary to
44 carry the appellate judgment into effect shall be made by the court from which the appeal was
45 taken.

1 **SECTION 26.** ORS 19.275 is amended to read:

2 19.275. (1) Any motion that requires a showing of a change of circumstances before the court
3 may modify a judgment, including a motion to reconsider the spousal or child support provisions of
4 a judgment pursuant to ORS 107.135, may be filed with the trial court while an appeal from the
5 judgment is pending before an appellate court. The filing of a motion under this subsection does not
6 affect the right of the appellant to pursue the appeal of the judgment.

7 (2) The trial court in its discretion may proceed to hear and decide a motion under this section
8 or may hold the motion in abeyance pending disposition of the appeal.

9 (3) Pursuant to the provisions of ORS 19.205, the court's *[final]* decision on a motion under this
10 section is a supplemental judgment. The appellate court in its discretion may consolidate an appeal
11 from a supplemental judgment under this section with the pending appeal of the general judgment
12 in the case, may direct that both appeals be heard at the same time or may allow the appeals to
13 proceed independently.

14 **SECTION 27.** ORS 19.415 is amended to read:

15 19.415. (1) Upon an appeal from a judgment in an action at law, the scope of review shall be as
16 provided in section 3, Article VII (Amended) of the Oregon Constitution.

17 (2) No judgment shall be reversed or modified except for error substantially affecting the rights
18 of a party.

19 (3) Upon an appeal from a judgment in *[a case that constituted a suit in equity under common*
20 *law]* **an equitable proceeding**, the Court of Appeals shall try the cause anew upon the record.

21 (4) When the Court of Appeals has tried a cause anew upon the record, the Supreme Court may
22 limit its review of the decision of the Court of Appeals to questions of law.

23 **SECTION 28.** ORS 33.125 is amended to read:

24 33.125. (1) The imposition of a sanction for contempt shall be by a judgment. *[The judgment shall*
25 *be entered in the register as a general judgment.]*

26 (2) *[A defendant may appeal from]* A judgment *[imposing]* **in a proceeding for imposition of a**
27 **remedial sanction may be appealed** in the same manner as from a judgment in an action at law.
28 An appeal from a judgment imposing a punitive sanction shall be in the manner provided for appeals
29 in ORS chapter 138. Appeals from judgments imposing sanctions for contempt in municipal courts
30 and justice courts shall be in the manner provided by law for appeals from those courts.

31 (3)(a) If a motion to initiate proceedings to impose remedial sanctions is filed in a related pro-
32 ceeding under ORS 33.055 (3) before entry of judgment in the related proceeding, and the court de-
33 termines that the defendant is in contempt, the court may suspend imposition of sanctions and entry
34 of judgment on the contempt until entry of judgment in the related proceeding.

35 (b) If a motion to initiate proceedings to impose remedial sanctions is filed in a related pro-
36 ceeding under ORS 33.055 (3) before entry of judgment in the related proceeding, and the court de-
37 nies the motion or declines to impose sanctions, the court shall enter judgment on that denial or
38 determination only as part of the judgment in the related proceeding.

39 (4) An appeal from a contempt judgment shall not stay any action or proceeding to which the
40 contempt is related.

41 **SECTION 29.** ORS 107.105 is amended to read:

42 107.105. (1) Whenever the court renders a judgment of marital annulment, dissolution or sepa-
43 ration, the court may provide in the judgment:

44 (a) For the future care and custody, by one party or jointly, of all minor children of the parties
45 born, adopted or conceived during the marriage, and for minor children born to the parties prior to

1 the marriage, as the court may deem just and proper under ORS 107.137. The court may hold a
2 hearing to decide the custody issue prior to any other issues. When appropriate, the court shall
3 recognize the value of close contact with both parents and encourage joint parental custody and
4 joint responsibility for the welfare of the children.

5 (b) For parenting time rights of the parent not having custody of such children, and for
6 visitation rights pursuant to a petition filed under ORS 109.119. When a parenting plan has been
7 developed as required by ORS 107.102, the court shall review the parenting plan and, if approved,
8 incorporate the parenting plan into the court's final order. When incorporated into a final order, the
9 parenting plan is determinative of parenting time rights. If the parents have been unable to develop
10 a parenting plan or if either of the parents requests the court to develop a detailed parenting plan,
11 the court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial
12 parent sufficient access to the child to provide for appropriate quality parenting time and assuring
13 the safety of the parties, if implicated. The court may deny parenting time to the noncustodial par-
14 ent under this subsection only if the court finds that parenting time would endanger the health or
15 safety of the child. The court shall recognize the value of close contact with both parents and en-
16 courage, when practicable, joint responsibility for the welfare of such children and extensive contact
17 between the minor children of the divided marriage and the parties. If the court awards parenting
18 time to a noncustodial parent who has committed abuse, the court shall make adequate provision for
19 the safety of the child and the other parent in accordance with the provisions of ORS 107.718 (4).

20 (c) For the support of the children of the marriage by the parties. In ordering child support, the
21 formula established by ORS 25.270 to 25.287 shall apply. The court may at any time require an ac-
22 counting from the custodial parent with reference to the use of the money received as child support.
23 The court is not required to order support for any minor child who has become self-supporting,
24 emancipated or married, or who has ceased to attend school after becoming 18 years of age.

25 (d) For spousal support, an amount of money for a period of time as may be just and equitable
26 for one party to contribute to the other, in gross or in installments or both. The court may approve
27 an agreement for the entry of an order for the support of a party. In making the spousal support
28 order, the court shall designate one or more categories of spousal support and shall make findings
29 of the relevant factors in the decision. The court may order:

30 (A) Transitional spousal support as needed for a party to attain education and training neces-
31 sary to allow the party to prepare for reentry into the job market or for advancement therein. The
32 factors to be considered by the court in awarding transitional spousal support include but are not
33 limited to:

- 34 (i) The duration of the marriage;
- 35 (ii) A party's training and employment skills;
- 36 (iii) A party's work experience;
- 37 (iv) The financial needs and resources of each party;
- 38 (v) The tax consequences to each party;
- 39 (vi) A party's custodial and child support responsibilities; and
- 40 (vii) Any other factors the court deems just and equitable.

41 (B) Compensatory spousal support when there has been a significant financial or other contri-
42 bution by one party to the education, training, vocational skills, career or earning capacity of the
43 other party and when an order for compensatory spousal support is otherwise just and equitable in
44 all of the circumstances. The factors to be considered by the court in awarding compensatory
45 spousal support include but are not limited to:

- 1 (i) The amount, duration and nature of the contribution;
2 (ii) The duration of the marriage;
3 (iii) The relative earning capacity of the parties;
4 (iv) The extent to which the marital estate has already benefited from the contribution;
5 (v) The tax consequences to each party; and
6 (vi) Any other factors the court deems just and equitable.
- 7 (C) Spousal maintenance as a contribution by one spouse to the support of the other for either
8 a specified or an indefinite period. The factors to be considered by the court in awarding spousal
9 maintenance include but are not limited to:
- 10 (i) The duration of the marriage;
11 (ii) The age of the parties;
12 (iii) The health of the parties, including their physical, mental and emotional condition;
13 (iv) The standard of living established during the marriage;
14 (v) The relative income and earning capacity of the parties, recognizing that the wage earner's
15 continuing income may be a basis for support distinct from the income that the supported spouse
16 may receive from the distribution of marital property;
17 (vi) A party's training and employment skills;
18 (vii) A party's work experience;
19 (viii) The financial needs and resources of each party;
20 (ix) The tax consequences to each party;
21 (x) A party's custodial and child support responsibilities; and
22 (xi) Any other factors the court deems just and equitable.
- 23 (e) For the delivery to one party of such party's personal property in the possession or control
24 of the other at the time of the giving of the judgment.
- 25 (f) For the division or other disposition between the parties of the real or personal property, or
26 both, of either or both of the parties as may be just and proper in all the circumstances. A retire-
27 ment plan or pension or an interest therein shall be considered as property. The court shall consider
28 the contribution of a spouse as a homemaker as a contribution to the acquisition of marital assets.
29 There is a rebuttable presumption that both spouses have contributed equally to the acquisition of
30 property during the marriage, whether such property is jointly or separately held. Subsequent to the
31 filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties
32 in the marital assets shall be considered a species of coownership, and a transfer of marital assets
33 under a judgment of annulment or dissolution of marriage or of separation entered on or after Oc-
34 tober 4, 1977, shall be considered a partitioning of jointly owned property. The court shall require
35 full disclosure of all assets by the parties in arriving at a just property division. In arriving at a
36 just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes
37 and any other costs reasonably anticipated by the parties. If a spouse has been awarded spousal
38 support in lieu of a share of property, the court shall so state on the record, and shall order the
39 obligor to provide for and maintain life insurance in an amount commensurate with the obligation
40 and designating the obligee as beneficiary for the duration of the obligation. If the obligor dies prior
41 to the termination of such support and such insurance is not in force, the court may modify the
42 method of payment of spousal support under the judgment or order of support from installments to
43 a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with
44 the present value of the spousal support at the time of death. The obligee or attorney of the obligee
45 shall cause a certified copy of the judgment to be delivered to the life insurance company or com-

1 panies. If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life
 2 insurance company or companies, identifying the policies involved and requesting such notification
 3 under this section, the company or companies shall notify the obligee, as beneficiary of the insur-
 4 ance policy, whenever the policyholder takes any action that will change the beneficiary or reduce
 5 the benefits of the policy. Either party may request notification by the insurer when premium
 6 payments have not been made. If the obligor is ordered to provide for and maintain life insurance,
 7 the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to
 8 the obligee written notice of any action that will reduce the benefits or change the designation of
 9 the beneficiaries under the policy.

10 (g) For the creation of trusts as follows:

11 (A) For the appointment of one or more trustees to hold, control and manage for the benefit of
 12 the children of the parties, of the marriage or otherwise, such of the real or personal property of
 13 either or both of the parties, as the court may order to be allocated or appropriated to their support
 14 and welfare; and to collect, receive, expend, manage or invest any sum of money awarded for the
 15 support and welfare of minor children of the parties.

16 (B) For the appointment of one or more trustees to hold, manage and control such amount of
 17 money or such real or personal property of either or both of the parties, as may be set aside, allo-
 18 cated or appropriated for the support of a party.

19 (C) For the establishment of the terms of the trust and provisions for the disposition or distrib-
 20 ution of such money or property to or between the parties, their successors, heirs and assigns after
 21 the purpose of the trust has been accomplished. Upon petition of a party or a person having an in-
 22 terest in the trust showing a change of circumstances warranting a change in the terms of the trust,
 23 the court may make and direct reasonable modifications in its terms.

24 (h) To change the name of either spouse to a name the spouse held before the marriage. The
 25 court shall order a change if it is requested by the affected party.

26 (i) For a money award for any sums of money found to be then remaining unpaid upon any order
 27 or limited judgment entered under ORS 107.095. If a limited judgment was entered under ORS
 28 107.095, the limited judgment shall continue to be enforceable for any amounts not paid under the
 29 limited judgment unless those amounts are included in the money award made by the general judg-
 30 ment.

31 (j) For an award of reasonable attorney fees **and costs and expenses reasonably incurred in**
 32 **the action** in favor of a party or in favor of a party's attorney.

33 (2) In determining the proper amount of support and the proper division of property under sub-
 34 section (1)(c), (d) and (f) of this section, the court may consider evidence of the tax consequences
 35 on the parties of its proposed judgment.

36 (3) Upon the filing of the judgment, the property division ordered shall be deemed effective for
 37 all purposes. This transfer by judgment, which shall effect solely owned property transferred to the
 38 other spouse as well as commonly owned property in the same manner as would a declaration of a
 39 resulting trust in favor of the spouse to whom the property is awarded, shall not be deemed a tax-
 40 able sale or exchange.

41 (4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of sepa-
 42 ration or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to
 43 107.086, 107.095, 107.105, 107.115 to 107.174, 107.405, 107.425, 107.445 to 107.520, 107.540 and 107.610,
 44 the court rendering the judgment may provide in a supplemental judgment for any relief provided
 45 for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only

1 during the pendency of the appeal. A supplemental judgment under this subsection may be enforced
 2 as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this sub-
 3 section may be appealed in the same manner as provided for supplemental judgments modifying a
 4 domestic relations judgment under ORS 19.275.

5 (5) If an appeal is taken from the judgment or other appealable order in a suit for annulment
 6 or dissolution of a marriage or for separation, and the appellate court awards costs and disburse-
 7 ments to a party, it may also award to that party, as part of the costs, such additional sum of money
 8 as it may adjudge reasonable as an attorney fee on the appeal.

9 (6) If, as a result of a suit for the annulment or dissolution of a marriage or for separation, the
 10 parties to such suit become owners of an undivided interest in any real or personal property, or
 11 both, either party may maintain supplemental proceedings by filing a petition in such suit for the
 12 partition of such real or personal property, or both, within two years from the entry of the judgment,
 13 showing among other things that the original parties to the judgment and their joint or several
 14 creditors having a lien upon any such real or personal property, if any there be, constitute the sole
 15 and only necessary parties to such supplemental proceedings. The procedure in the supplemental
 16 proceedings, so far as applicable, shall be the procedure provided in ORS 105.405, for the partition
 17 of real property, and the court granting the judgment shall have in the first instance and retain
 18 jurisdiction in equity therefor.

19 **SECTION 29a.** ORS 156.220 is amended to read:

20 156.220. Except as provided in ORS 18.048 (3) **and (4)**, any judgment rendered by a justice court
 21 on an offense that imposes a monetary obligation must contain the separate section required by ORS
 22 18.048 [(2)] (1).

23 **SECTION 30.** ORS 416.440 is amended to read:

24 416.440. (1) The documents required to be filed for purposes of subsection (2) of this section in-
 25 clude all the following:

26 (a) A true copy of any order entered, filed or registered by the administrator or administrative
 27 law judge pursuant to ORS 416.400 to 416.470 or ORS chapter 110.

28 (b) A true copy of the return of service, if applicable.

29 (c) A separate statement containing the information required to be contained in a judgment
 30 under ORS 18.042 (2).

31 (2) The documents described under subsection (1) of this section shall be filed in the office of
 32 the clerk of the circuit court in the county in which either the parent or the dependent child resides
 33 or in the county where the court order was entered if the administrative order is an order modifying
 34 a court order. Upon receipt of the documents, the clerk shall enter the order in the register of the
 35 circuit court [*and*], shall note in the register that the order creates a lien **and shall make the**
 36 **notations required by ORS 18.075 in the separate record maintained under ORS 18.075 (3).**

37 (3) Upon entry in the register under subsection (2) of this section, the order shall have all the
 38 force, effect and attributes of a judgment of the circuit court, including but not limited to:

39 (a) Creation of a judgment lien under ORS chapter 18; and

40 (b) Ability to be enforced by contempt proceedings and pursuant to ORS 18.252 to 18.850.

41 (4) Notwithstanding subsection (3) of this section, an administrative order modifying a court
 42 order shall not become effective until reviewed and approved by the court under ORS 416.425 (10).

43 (5) Notwithstanding subsections (2) and (3) of this section, the entry in the register of an order
 44 of the administrator or administrative law judge does not preclude any subsequent proceeding or
 45 remedy available under ORS 416.400 to 416.470.

1 (6) A court or administrative order of another state may be filed, or if appropriate, registered,
 2 pursuant to this section for the purposes of ORS chapter 110. Notwithstanding any other provision
 3 of this chapter, an order of another state registered pursuant to ORS 110.405, 110.408 and 110.411
 4 may not be modified unless the requirements of ORS 110.432 are met.

5 **SECTION 31.** ORCP 68 C is amended to read:

6 C Award of and entry of judgment for attorney fees and costs and disbursements.

7 C(1) Application of this section to award of attorney fees. Notwithstanding Rule 1 A and the
 8 procedure provided in any rule or statute permitting recovery of attorney fees in a particular case,
 9 this section governs the pleading, proof, and award of attorney fees in all cases, regardless of the
 10 source of the right to recovery of such fees, except where:

11 C(1)(a) Such items are claimed as damages arising prior to the action; or

12 C(1)(b) Such items are granted by order, rather than entered as part of a judgment.

13 C(2)(a) Alleging right to attorney fees. A party seeking attorney fees shall allege the facts,
 14 statute, or rule which provides a basis for the award of such fees in a pleading filed by that party.
 15 Attorney fees may be sought before the substantive right to recover such fees accrues. No attorney
 16 fees shall be awarded unless a right to recover such fee is alleged as provided in this subsection.

17 C(2)(b) If a party does not file a pleading and seeks judgment or dismissal by motion, a right to
 18 attorney fees shall be alleged in such motion, in similar form to the allegations required in a
 19 pleading.

20 C(2)(c) A party shall not be required to allege a right to a specific amount of attorney fees. An
 21 allegation that a party is entitled to "reasonable attorney fees" is sufficient.

22 C(2)(d) Any allegation of a right to attorney fees in a pleading or motion shall be deemed denied
 23 and no responsive pleading shall be necessary. The opposing party may make a motion to strike the
 24 allegation or to make the allegation more definite and certain. Any objections to the form or
 25 specificity of allegation of the facts, statute, or rule which provides a basis for the award of fees
 26 shall be waived if not alleged prior to trial or hearing.

27 C(3) Proof. The items of attorney fees and costs and disbursements shall be submitted in the
 28 manner provided by subsection (4) of this section, without proof being offered during the trial.

29 C(4) Procedure for seeking attorney fees or costs and disbursements. The procedure for seeking
 30 attorney fees or costs and disbursements shall be as follows:

31 C(4)(a) Filing and serving statement of attorney fees and costs and disbursements. A party
 32 seeking attorney fees or costs and disbursements shall, not later than 14 days after entry of judg-
 33 ment pursuant to Rule 67:

34 C(4)(a)(i) File with the court a signed and detailed statement of the amount of attorney fees or
 35 costs and disbursements, together with proof of service, if any, in accordance with Rule 9 C; and

36 C(4)(a)(ii) Serve, in accordance with Rule 9 B, a copy of the statement on all parties who are
 37 not in default for failure to appear.

38 C(4)(b) Objections. A party may object to a statement seeking attorney fees or costs and dis-
 39 bursements or any part thereof by written objections to the statement. The objections shall be
 40 served within 14 days after service on the objecting party of a copy of the statement. The objections
 41 shall be specific and may be founded in law or in fact and shall be deemed controverted without
 42 further pleading. Statements and objections may be amended in accordance with Rule 23.

43 C(4)(c) Hearing on objections.

44 C(4)(c)(i) If objections are filed in accordance with paragraph C(4)(b) of this rule, the court,
 45 without a jury, shall hear and determine all issues of law and fact raised by the statement of at-

1 torney fees or costs and disbursements and by the objections. The parties shall be given a reason-
 2 able opportunity to present affidavits, declarations and other evidence relevant to any factual issue,
 3 including any factors that ORS 20.075 or any other statute or rule requires or permits the court to
 4 consider in awarding or denying attorney fees or costs and disbursements.

5 C(4)(c)(ii) The court shall deny or award in whole or in part the amounts sought as attorney fees
 6 or costs and disbursements.

7 C(4)(d) No timely objections. If objections are not timely filed the court may award attorney fees
 8 or costs and disbursements sought in the statement.

9 C(4)(e) Findings and conclusions. On the request of a party, the court shall make special findings
 10 of fact and state its conclusions of law on the record regarding the issues material to the award or
 11 denial of attorney fees. A party shall make a request pursuant to this paragraph by including a re-
 12 quest for findings and conclusions in the title of the statement of attorney fees or costs and dis-
 13 bursements or objections filed pursuant to paragraph (a) or (b) of this subsection. In the absence of
 14 a request under this paragraph, the court may make either general or special findings of fact and
 15 may state its conclusions of law regarding attorney fees.

16 C(5) Judgment concerning attorney fees or costs and disbursements.

17 C(5)(a) As part of judgment. [*When*] **If** all issues regarding attorney fees or costs and disburse-
 18 ments [*have been determined*] **are decided** before **entry of** a judgment pursuant to Rule 67 [*is*
 19 *entered*], the court shall include any award or denial of attorney fees or costs and disbursements in
 20 that judgment.

21 C(5)(b) By supplemental judgment; notice. [*When*] **If** any issue regarding attorney fees or costs
 22 and disbursements [*has*] **is not** [*been determined*] **decided** before **entry of a general** judgment [*pur-*
 23 *suant to Rule 67 is entered*], any award or denial of attorney fees or costs and disbursements shall
 24 be made by [*a separate*] supplemental judgment. [*The supplemental judgment shall be filed and entered*
 25 *and notice shall be given to the parties in the same manner as provided in Rule 70 B(1).*]

26 C(6) Avoidance of multiple collection of attorney fees and costs and disbursements.

27 C(6)(a) Separate judgments for separate claims. If more than one judgment is entered in an
 28 action, the court shall take such steps as necessary to avoid the multiple taxation of the same at-
 29 torney fees and costs and disbursements in those judgments.

30 C(6)(b) Separate judgments for the same claim. If more than one judgment is entered for the
 31 same claim (where separate actions are brought for the same claim against several parties who
 32 might have been joined as parties in the same action, or where pursuant to Rule 67 B separate
 33 limited judgments are entered against several parties for the same claim), attorney fees and costs
 34 and disbursements may be entered in each judgment as provided in this rule, but satisfaction of one
 35 judgment bars recovery of attorney fees or costs and disbursements included in all other judgments.

36 **SECTION 32. Section 33 of this 2005 Act is added to and made a part of ORS chapter 111.**

37 **SECTION 33. (1) The court in a probate proceeding under ORS chapters 111, 112, 113, 114,**
 38 **115, 116 and 117 may enter a limited judgment only for the following decisions of the court:**

39 **(a) A decision on a petition for appointment or removal of a personal representative.**

40 **(b) A decision in a will contest filed in the probate proceeding.**

41 **(c) A decision on an objection to an accounting.**

42 **(d) A decision on a request made in the proceeding for a declaratory judgment under ORS**
 43 **111.095.**

44 **(e) Such decisions of the court as may be specified by rules or orders of the Chief Justice**
 45 **of the Supreme Court under section 3 of this 2005 Act.**

1 **(2) A court may enter a limited judgment under this section only if the court determines**
2 **that there is no just reason for delay. The judgment document need not reflect the court's**
3 **determination that there is no just reason for delay.**

4 **SECTION 34.** ORS 116.113 is amended to read:

5 116.113. (1) If no objections to the final account and petition for distribution are filed, or if ob-
6 jections are filed, upon the hearing, the court shall [*give*] **enter a general** judgment of final dis-
7 tribution. In the judgment the court shall designate the persons in whom title to the estate available
8 for distribution is vested and the portion of the estate or property to which each is entitled under
9 the will, by agreement approved by the court or pursuant to intestate succession. The judgment shall
10 also contain any findings of the court in respect to:

- 11 (a) Advancements.
- 12 (b) Election against will by the surviving spouse.
- 13 (c) Renunciation.
- 14 (d) Lapse.
- 15 (e) Adjudicated controversies.
- 16 (f) Partial distribution, which shall be confirmed or modified.
- 17 (g) Retainer.
- 18 (h) Claims for which a special fund is set aside, and the amount set aside.
- 19 (i) Contingent claims that have been allowed and are still unpaid.
- 20 (j) Approval of the final account in whole or in part.

21 (2) The personal representative is not entitled to approval of the final account until Oregon in-
22 come and personal property taxes, if any, have been paid and appropriate receipts and clearances
23 therefor have been filed, or until payment of those taxes has been secured by bond, deposit or oth-
24 erwise, provided, however, that no such receipts or clearances shall be required with regard to
25 damages accepted upon settlement of a claim or recovered on a judgment in an action for wrongful
26 death as provided in ORS 30.010 to 30.100.

27 (3) If, by agreement approved by the court, property is distributed to persons in whom title is
28 vested by the judgment of final distribution otherwise than as provided by the will or pursuant to
29 intestate succession, the judgment operates as a transfer of the property between those persons.

30 (4) The judgment of final distribution is a conclusive determination of the persons who are the
31 successors in interest to the estate and of the extent and character of their interest therein, subject
32 only to the right of appeal and the power of the court to vacate the judgment.

33 **SECTION 35.** Section 36 of this 2005 Act is added to and made a part of ORS chapter 125.

34 **SECTION 36.** (1) **The appointment of a fiduciary in a protective proceeding shall be made**
35 **by limited judgment.**

36 **(2) The court in a protective proceeding may enter a limited judgment only for the fol-**
37 **lowing decisions of the court:**

- 38 **(a) A decision on an objection to an accounting.**
- 39 **(b) A decision on placement of a protected person.**
- 40 **(c) A decision on the sale of the residence of a protected person.**
- 41 **(d) Such decisions of the court as may be specified by rules or orders of the Chief Justice**
42 **of the Supreme Court under section 3 of this 2005 Act.**

43 **(3) A court may enter a limited judgment under subsection (2) of this section only if the**
44 **court determines that there is no just reason for delay. The judgment document need not**
45 **reflect the court's determination that there is no just reason for delay.**

1 **SECTION 37.** ORS 125.090 is amended to read:

2 125.090. (1) A protected person is entitled to the same rights and procedures provided in the
3 original proceedings when a motion to terminate the [*protected*] **protective** proceeding is filed and
4 a fiduciary opposes the motion. The fiduciary has the burden of proving by clear and convincing
5 evidence that a protected person continues to be incapacitated or financially incapable if a motion
6 to terminate a protective proceeding is filed and the fiduciary opposes the motion. A visitor must
7 be appointed if a motion for termination of a guardianship is filed and objections are filed to the
8 motion. A visitor may be appointed if a motion for termination of a conservatorship is filed.

9 (2) The court may terminate protective proceedings upon motion after determining any of the
10 following:

11 (a) The appointment of a fiduciary or other protective order was made because the protected
12 person was a minor, and the protected person has attained the age of majority.

13 (b) The appointment of a fiduciary or other protective order was made because the protected
14 person was incapacitated, and the protected person is no longer incapacitated.

15 (c) The appointment of a fiduciary or other protective order was made because the protected
16 person was financially incapable, and the protected person is no longer financially incapable or the
17 conditions of ORS 125.535 have been met.

18 (d) The protected person has died.

19 (e) The best interests of the protected person would be served by termination of the proceedings.

20 **(3) The court shall terminate a protective proceeding by entry of a general judgment.**

21 **SECTION 38.** ORS 18.038 is amended to read:

22 18.038. (1) A judgment document must be plainly titled as a judgment.

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

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

26 (b) Judgments in criminal actions.

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

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

31 (4) A judgment document must include:

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

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

36 (c) The signature of the judge rendering the judgment, or the signature of the court adminis-
37 trator if the court administrator is authorized by law to sign the judgment document, and the date
38 the judgment document is signed.

39 (5) This section does not apply to any foreign judgment filed with a court under ORS 24.115 or
40 110.405.

41 **SECTION 39.** ORS 88.080 is amended to read:

42 88.080. A judgment of foreclosure shall order the mortgaged property sold. Property sold on ex-
43 ecution issued upon a judgment may be redeemed in like manner and with like effect as property
44 sold on an execution pursuant to ORS [*18.478*,] 18.486, 18.532, 18.536, 18.538, 18.542, 18.545, 18.548,
45 18.552, 18.555, 18.562, 18.565, 18.568, 18.572, 18.578, 18.582, 18.585, 18.588, 18.594 and 18.598, and not

1 otherwise. A sheriff's deed for property sold on execution issued upon a judgment shall have the
2 same force and effect as a sheriff's deed issued for property sold on an execution pursuant to ORS
3 [18.478,] 18.486, 18.532, 18.536, 18.538, 18.542, 18.545, 18.548, 18.552, 18.555, 18.562, 18.565, 18.568,
4 18.572, 18.578, 18.582, 18.585, 18.588, 18.594 and 18.598.

5 **SECTION 40. Section 41 of this 2005 Act is added to and made a part of ORS chapter 18.**

6 **SECTION 41. The provisions of this chapter do not affect the ability of the Chief Justice
7 of the Supreme Court to authorize the use of electronic judgment forms pursuant to rules
8 adopted under ORS 1.002 (2).**

9 **SECTION 42. ORS 18.478 is repealed.**

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