

Enrolled House Bill 2359

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

CHAPTER

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.

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

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

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

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

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

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

- (a) A [*claim*] **request for relief** previously decided by a limited judgment; and
- (b) A [*claim*] **request for relief** that may be decided by a supplemental judgment.

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

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

[(11)] **(10)** “Judgment lien” means:

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

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

[(12)] **(11)** “Judgment remedy” means:

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

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

(12) “Legal authority” means:

(a) A statute;

(b) An Oregon Rule of Civil Procedure;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. ORS 18.035 is amended to read:

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

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

SECTION 12. ORS 18.042 is amended to read:

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

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

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

(b)[(A)] The name of each judgment debtor and, to the extent known by the judgment creditor:
[(i)] **(A) The address of each judgment debtor;**
[(ii)] **(B) The date of birth of each judgment debtor;**
[(iii)] **(C) The Social Security number or tax identification number of each judgment debtor;**
[(iv)] **(D) The driver license number of each judgment debtor and the name of the state [of issuance] that issued the license;** and

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

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

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

(d) The amount of the money award.

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

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

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

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

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

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

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

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

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

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

SECTION 13. ORS 18.048 is amended to read:

18.048. [(1) *If a judgment document in a criminal action contains a money award, whether by reason of a fine, restitution, forfeiture of security under ORS 135.280, a fee, an assessment, costs and*

disbursements or any other monetary obligation, and the judgment is for conviction of a felony or misdemeanor, the court administrator shall note in the register that the judgment creates a judgment lien if the judgment document complies with this section. If the judgment is for conviction of a violation as described in ORS 153.008, the court administrator shall note in the register that the judgment creates a judgment lien only if the court has ordered that the judgment create a judgment lien.]

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

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

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

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

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

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

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

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

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

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

SECTION 14. ORS 18.052 is amended to read:

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

determination if the title of the judgment document indicates that the judgment is a limited judgment.

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

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

SECTION 15. ORS 18.075 is amended to read:

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

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

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

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

(c) Whether the judgment includes a money award.

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

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

(a) The name of all judgment debtors.

(b) The name of all judgment creditors.

(c) The amount of the money award.

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

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

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

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

(c) The date of any decision on appeal.

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

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

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

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

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

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

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

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

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

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

SECTION 16. ORS 18.078 is amended to read:

18.078. (1) Upon entering a judgment in a civil action, or entry of any corrected judgment under ORS 18.107, the court administrator shall mail the notice described in subsection (2) of this section to the attorneys of record for each party that is not in default for failure to appear. If a party does

not have an attorney of record, and is not in default for failure to appear, the court administrator shall mail the notice to the party. The court administrator shall note in the register that the notice required by this section was mailed as required by this section.

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

- (a) The date the judgment was entered.
- (b) Whether the judgment was entered as a limited judgment, a general judgment or a supplemental judgment.
- (c) Whether the court administrator noted in the register that the judgment contained a money award.
- (d) Whether the court administrator noted in the register that the judgment creates a judgment lien.
- (3) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

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

SECTION 17. ORS 18.082 is amended to read:

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

- (a) Becomes the exclusive statement of the court's decision in the case and governs the rights and obligations of the parties that are subject to the judgment;
- (b) May be enforced in the manner provided by law;
- (c) May be appealed in the manner provided by law;
- (d) Acts as official notice of the court's decision; and
- (e) May be set aside or modified only by the court rendering the judgment or by another court or tribunal with the same or greater authority than the court rendering the judgment.

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

- (a) Is not a judgment;
- (b) Is consistent with the terms of the general judgment and any limited judgments in the case; and
- (c) Reflects an express determination by the court that the decision be [*final*] **conclusive** as to the [*claim or claims*] **requests for relief that are** resolved.

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

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

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

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

SECTION 18. ORS 18.112 is amended to read:

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

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

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

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

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

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

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

SECTION 19. ORS 18.150 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 20. ORS 18.152 is amended to read:

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

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

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

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

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

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

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

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

(4)(a) If a certificate of extension is filed under ORS 18.182, and the certificate is filed before the judgment is recorded under this section, a judgment creditor may record a certified copy of the certificate or a lien record abstract for the certificate with the judgment. The recording shall act to extend the judgment lien of a judgment, and any support arrearage lien, in the county for the time provided in ORS 18.180 to 18.192.

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

18.192, but the lien is subordinate to all other interests that are of record on the date the certificate or lien record abstract is recorded.

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

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

SECTION 21. ORS 18.165 is amended to read:

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

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

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

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

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

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

(3) As used in this section:

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

(b) "Grantee" means:

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

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

SECTION 22. ORS 18.180 is amended to read:

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

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

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

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

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

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

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

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

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

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

SECTION 23. ORS 18.415 is amended to read:

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

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

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

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

SECTION 24. ORS 18.428 is amended to read:

18.428. (1) A mobile home, and the property upon which the mobile home is situated, that is the actual abode of and occupied by the owner, or the owner's spouse, parent or child, when that mobile home is occupied as a sole residence and no other homestead exemption exists, shall be exempt from execution and from liability in any form for the debts of the owner to the value of \$23,000, except as otherwise provided by law. When two or more members of a household are debtors whose interests in the homestead are subject to sale on execution, the lien of a judgment or liability in any

form, their combined exemptions under this section may not exceed \$30,000. The exemption shall be effective without the necessity of a claim thereof by the judgment debtor.

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

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

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

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

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

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

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

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

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

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

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

SECTION 24a. ORS 18.468 is amended to read:

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

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

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

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

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

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

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

SECTION 25. ORS 18.505 is amended to read:

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

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

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

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

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

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

YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Execution form that you received with this notice.
- (2) Mail or deliver the Challenge to Execution form to the court administrator at the address shown on the writ of execution.

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

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

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

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

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

NOTICE OF EXEMPT PROPERTY

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

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

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

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

- (a) 75 percent of your take-home wages; or
- (b) \$170 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).
- (4) Public assistance (welfare).
- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.

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

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

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

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

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

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

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

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

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

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

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

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

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

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

(24) Federal annuities.

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

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

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

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

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

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

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

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

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

(31) Equitable interests in property.

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

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

SECTION 25b. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law re-

lating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY
AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

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

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

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

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

- (a) 75 percent of your take-home wages; or
- (b) \$170 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).
- (4) Public assistance (welfare).
- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.

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

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

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

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

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

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

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

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

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

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

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

(19) Public or private pensions.

(20) Veterans' benefits and loans.

(21) Medical assistance benefits.

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

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

- (24) Federal annuities.
- (25) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).
- (26) Professionally prescribed health aids for you or any of your dependents.
- *(27) Elderly rental assistance allowed pursuant to ORS 310.635.
- (28) Your right to receive, or property traceable to:
 - (a) An award under any crime victim reparation law.
 - (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.
 - (c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.
- (29) Amounts paid to you as an earned income tax credit under federal tax law.
- *(30) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.
- (31) Equitable interests in property.
- (32) If the amount shown as owing on the Debt Calculation form exceeds the amount you actually owe to the creditor, the difference between the amount owed and the amount shown on the Debt Calculation form.

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

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

YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK. You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Garnishment form that you received with this notice.
- (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address shown on the writ of garnishment, **and mail or deliver a copy of the form to the Garnishor at the address shown on the writ of garnishment.** If you wish to claim wages or salary as exempt, you must mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any other money or property is exempt, or claim that the property is not subject to garnishment, you must mail or deliver the form within 30 days after you receive this notice. You have the burden of showing that your challenge is made on time, so you should keep records showing when the challenge was mailed or delivered.
- (3) The law only requires that the Garnishor hold the garnished money or property for 10 days before applying it to the Creditor's use. You may be able to keep the property from being used by the Creditor by promptly following (1) and (2) above.

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

YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOWING PURPOSES:

- (1) To claim such exemptions from garnishment as are permitted by law.
- (2) To assert that property is not garnishable property under ORS 18.618.

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

YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE VALIDITY OF THE DEBT.

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

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

SECTION 25c. ORS 19.270 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Recall the appellate judgment as justice may require;
- (b) Stay enforcement of the appellate judgment to allow the filing of a petition for writ of certiorari to the Supreme Court of the United States; and
- (c) Stay enforcement of the appellate judgment pending disposition of the matter by the Supreme Court of the United States or for such other time as the Oregon appellate court may deem appropriate.

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

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

SECTION 26. ORS 19.275 is amended to read:

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

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

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

SECTION 27. ORS 19.415 is amended to read:

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

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

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

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

SECTION 28. ORS 33.125 is amended to read:

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

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

(3)(a) If a motion to initiate proceedings to impose remedial sanctions is filed in a related proceeding under ORS 33.055 (3) before entry of judgment in the related proceeding, and the court determines that the defendant is in contempt, the court may suspend imposition of sanctions and entry of judgment on the contempt until entry of judgment in the related proceeding.

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

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

SECTION 29. ORS 107.105 is amended to read:

107.105. (1) Whenever the court renders a judgment of marital annulment, dissolution or separation, the court may provide in the judgment:

(a) For the future care and custody, by one party or jointly, of all minor children of the parties born, adopted or conceived during the marriage, and for minor children born to the parties prior to the marriage, as the court may deem just and proper under ORS 107.137. The court may hold a hearing to decide the custody issue prior to any other issues. When appropriate, the court shall recognize the value of close contact with both parents and encourage joint parental custody and joint responsibility for the welfare of the children.

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

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

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

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

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

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

- (i) The amount, duration and nature of the contribution;

- (ii) The duration of the marriage;
- (iii) The relative earning capacity of the parties;
- (iv) The extent to which the marital estate has already benefited from the contribution;
- (v) The tax consequences to each party; and
- (vi) Any other factors the court deems just and equitable.

(C) Spousal maintenance as a contribution by one spouse to the support of the other for either a specified or an indefinite period. The factors to be considered by the court in awarding spousal maintenance include but are not limited to:

- (i) The duration of the marriage;
- (ii) The age of the parties;
- (iii) The health of the parties, including their physical, mental and emotional condition;
- (iv) The standard of living established during the marriage;
- (v) The relative income and earning capacity of the parties, recognizing that the wage earner's continuing income may be a basis for support distinct from the income that the supported spouse may receive from the distribution of marital property;
- (vi) A party's training and employment skills;
- (vii) A party's work experience;
- (viii) The financial needs and resources of each party;
- (ix) The tax consequences to each party;
- (x) A party's custodial and child support responsibilities; and
- (xi) Any other factors the court deems just and equitable.

(e) For the delivery to one party of such party's personal property in the possession or control of the other at the time of the giving of the judgment.

(f) For the division or other disposition between the parties of the real or personal property, or both, of either or both of the parties as may be just and proper in all the circumstances. A retirement plan or pension or an interest therein shall be considered as property. The court shall consider the contribution of a spouse as a homemaker as a contribution to the acquisition of marital assets. There is a rebuttable presumption that both spouses have contributed equally to the acquisition of property during the marriage, whether such property is jointly or separately held. Subsequent to the filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties in the marital assets shall be considered a species of coownership, and a transfer of marital assets under a judgment of annulment or dissolution of marriage or of separation entered on or after October 4, 1977, shall be considered a partitioning of jointly owned property. The court shall require full disclosure of all assets by the parties in arriving at a just property division. In arriving at a just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes and any other costs reasonably anticipated by the parties. If a spouse has been awarded spousal support in lieu of a share of property, the court shall so state on the record, and shall order the obligor to provide for and maintain life insurance in an amount commensurate with the obligation and designating the obligee as beneficiary for the duration of the obligation. If the obligor dies prior to the termination of such support and such insurance is not in force, the court may modify the method of payment of spousal support under the judgment or order of support from installments to a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with the present value of the spousal support at the time of death. The obligee or attorney of the obligee shall cause a certified copy of the judgment to be delivered to the life insurance company or companies. If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life insurance company or companies, identifying the policies involved and requesting such notification under this section, the company or companies shall notify the obligee, as beneficiary of the insurance policy, whenever the policyholder takes any action that will change the beneficiary or reduce the benefits of the policy. Either party may request notification by the insurer when premium payments have not been made. If the obligor is ordered to provide for and maintain life insurance, the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to

the obligee written notice of any action that will reduce the benefits or change the designation of the beneficiaries under the policy.

(g) For the creation of trusts as follows:

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

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

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

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

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

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

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

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

(4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of separation or from any part of a judgment rendered in pursuance of the provisions of ORS 107.005 to 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, the court rendering the judgment may provide in a supplemental judgment for any relief provided for in ORS 107.095 and shall provide that the relief granted in the judgment is to be in effect only during the pendency of the appeal. A supplemental judgment under this subsection may be enforced as provided in ORS 33.015 to 33.155 and ORS chapter 18. A supplemental judgment under this subsection may be appealed in the same manner as provided for supplemental judgments modifying a domestic relations judgment under ORS 19.275.

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

(6) If, as a result of a suit for the annulment or dissolution of a marriage or for separation, the parties to such suit become owners of an undivided interest in any real or personal property, or both, either party may maintain supplemental proceedings by filing a petition in such suit for the partition of such real or personal property, or both, within two years from the entry of the judgment, showing among other things that the original parties to the judgment and their joint or several creditors having a lien upon any such real or personal property, if any there be, constitute the sole

and only necessary parties to such supplemental proceedings. The procedure in the supplemental proceedings, so far as applicable, shall be the procedure provided in ORS 105.405, for the partition of real property, and the court granting the judgment shall have in the first instance and retain jurisdiction in equity therefor.

SECTION 29a. ORS 156.220 is amended to read:

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

SECTION 30. ORS 416.440 is amended to read:

416.440. (1) The documents required to be filed for purposes of subsection (2) of this section include all the following:

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

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

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

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

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

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

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

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

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

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

SECTION 31. ORCP 68 C is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C(4)(c) Hearing on objections.

C(4)(c)(i) If objections are filed in accordance with paragraph C(4)(b) of this rule, the court, without a jury, shall hear and determine all issues of law and fact raised by the statement of attorney fees or costs and disbursements and by the objections. The parties shall be given a reasonable opportunity to present affidavits, declarations and other evidence relevant to any factual issue, including any factors that ORS 20.075 or any other statute or rule requires or permits the court to consider in awarding or denying attorney fees or costs and disbursements.

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

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

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

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

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

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

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

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

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

SECTION 31a. If House Bill 2261 becomes law, section 31 of this 2005 Act (amending ORCP 68 C) is repealed and ORCP 68 C, as amended by section 4, chapter 22, Oregon Laws 2005 (Enrolled House Bill 2261), is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C(4)(c) Hearing on objections.

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

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

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

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

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

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

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

C(5)(b) By supplemental judgment; notice. [When] **If** any issue regarding attorney fees or costs and disbursements [has] **is** not [been determined] **decided** before **entry of a general** judgment [pursuant to Rule 67 is entered], any award or denial of attorney fees or costs and disbursements shall be made by [a separate] supplemental judgment. [The supplemental judgment shall be filed and entered and notice shall be given to the parties as provided in ORS 18.078.]

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

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

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

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

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

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

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

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

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

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

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

SECTION 34. ORS 116.113 is amended to read:

116.113. (1) If no objections to the final account and petition for distribution are filed, or if objections are filed, upon the hearing, the court shall [give] **enter** a **general** judgment of final distribution. In the judgment the court shall designate the persons in whom title to the estate available

for distribution is vested and the portion of the estate or property to which each is entitled under the will, by agreement approved by the court or pursuant to intestate succession. The judgment shall also contain any findings of the court in respect to:

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

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

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

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

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

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

(2) The court in a protective proceeding may enter a limited judgment only for the following decisions of the court:

- (a) A decision on an objection to an accounting.**
- (b) A decision on placement of a protected person.**
- (c) A decision on the sale of the residence of a protected person.**

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

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

SECTION 37. ORS 125.090 is amended to read:

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

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

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

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

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

(d) The protected person has died.

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

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

SECTION 38. ORS 18.038 is amended to read:

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

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

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

(b) Judgments in criminal actions.

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

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

(4) A judgment document must include:

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

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

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

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

SECTION 39. ORS 88.080 is amended to read:

88.080. A judgment of foreclosure shall order the mortgaged property sold. Property sold on execution issued upon a judgment may be redeemed in like manner and with like effect as property sold on an execution pursuant to ORS [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, 18.572, 18.578, 18.582, 18.585, 18.588, 18.594 and 18.598, and not otherwise. A sheriff's deed for property sold on execution issued upon a judgment shall have the same force and effect as a sheriff's deed issued for property sold on an execution pursuant to ORS [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, 18.572, 18.578, 18.582, 18.585, 18.588, 18.594 and 18.598.

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

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

SECTION 42. ORS 18.478 is repealed.

Passed by House May 17, 2005

Repassed by House June 29, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 27, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State