

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	5 - 0 - 0
<b>Yeas:</b>	Beyer, Kruse, Prozanski, Walker, Burdick
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Miranda Plummer, Counsel
<b>Meeting Dates:</b>	2/27

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**WHAT THE MEASURE DOES:** Requires a conveyance to be delivered and accepted before a judgment is entered in order for conveyance to be valid. Authorizes a single writ of execution for multiple judgments as long as they are against the same debtor in the same case. Requires that after entry of a judgment, the monetary award be decreased by payments made on behalf of debtor and increased by interest accrued on the judgment. Permits creditor to recover garnishment, court, and attorney expenses incurred while collecting on the judgment. Allows debtor to use a challenge to execution form to argue that the amount specified in the writ of execution is more than the amount the debtor owes pursuant to the money award. Permits judgment creditor to file an ex parte motion requesting a court order authorizing sheriff to forcibly enter a structure to obtain property subject to writ of execution. States that the interest of a judgment creditor is the same as that of a secured creditor with interest in the property. Permits judgment creditor to file an ex parte motion to determine whether levied property is tangible or intangible. Establishes that when property is sold pursuant to a mortgage foreclosure and the money received is not enough to pay off the mortgage, the lender has no further remedies after sale, if the mortgage was given to a seller to secure the unpaid purchase price of property, or, if the mortgage was given after September 13, 1975, to a person other than the seller to secure a portion of the unpaid balance of a residence. Allows sheriff to require that a judgment creditor indemnify the sheriff that acquires and sells property to fulfill a judgment. Allows waiver of requirement if there is proof that the debtor is the sole owner of the property or if there is no title document on the property, and no lien.

**ISSUES DISCUSSED:**

- How sheriffs have been administering writs of execution in the past
- Rules for which items should be seized pursuant to lien
- Ongoing revision of judgment statutes

**EFFECT OF COMMITTEE AMENDMENT:** Establishes that the court administrator bears no duty to calculate the amount owing on the money award portion of the judgment.

**BACKGROUND:** As written, ORS 18.165 states that a conveyance of a debtor's interest is void if recorded after a judgment with lien effect is entered. There is an exception in situations with a good faith purchaser, and the conveyance is recorded within 20 days after delivery and acceptance of the conveyance. This led to some conveyances occurring after lien effect judgments, allowing debtors to liquidate assets that may be obligated to creditors.

A single writ of execution may be issued for two or more statutory purposes, but ORS 18.860 is currently silent about multiple judgment consolidation. Currently, a debtor may use a challenge to execution form to claim exemptions from execution as permitted by law. This usually involves certain types of property, as explained in the form.

Sheriffs have been vulnerable to lawsuits for entering a structure to secure levied property and for selling the property to fulfill a judgment. SB 322 clarifies their authority and requires creditors to provide legal/financial support to sheriffs. ORS 18.886 already allows sheriffs to require indemnification, but SB 322 clarifies the situations where it happens and provides specific exceptions.

A judgment creditor may already seek an ex parte order directing the manner in which intangible property may be secured by the sheriff. SB 322 streamlines the process by allowing the creditor to also seek judicial comment on the tangibility of the property.

3/6/2007 8:34:00 AM

***This summary has not been adopted or officially endorsed by action of the committee.***

Committee Services Form – 2007 Regular Session