

B-Engrossed House Bill 2331

Ordered by the House June 22
Including House Amendments dated May 9 and June 22

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

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

[Increases legal aid filing fees for certain court filings. Establishes legal aid filing fees for certain court filings.]

[Creates Court Facilities Planning Commission to study and make recommendations on minimum standards for suitable and sufficient state court facilities to be constructed or renovated with state financial assistance.]

[Imposes surcharges on specified court filing fees. Appropriates funds collected under surcharges to State Court Administrator to be used only for purposes of paying costs of Court Facilities Planning Commission.]

Modifies certain court fees and imposes surcharge on specified court filing fees.

Increases certain prevailing party fees.

Reduces dispute resolution surcharges.

Authorizes Chief Justice of Supreme Court to impose fees on motions.

Creates Interim Committee on Court Facilities to evaluate status of state court facilities, recommendations on standards for reasonable and sufficient court facilities and develop proposal for ensuring that needed improvements to court facilities are made.

Creates Interim Committee on Court Technology to evaluate technology transition plan of Judicial Department and make recommendations on plan.

Appropriates moneys from General Fund to Legislative Administration Committee for costs of interim committees.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to courts; creating new provisions; amending ORS 1.202, 18.999, 20.190, 21.010, 21.110,
3 21.111, 21.114, 21.325, 21.350, 21.480, 36.170, 36.520, 36.615, 46.570 and 105.130; appropriating
4 money; and declaring an emergency.

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

RESPONDENT FEE INCREASES

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9 **SECTION 1.** ORS 21.010, as amended by section 3, chapter 702, Oregon Laws 2005, and section
10 33, chapter 843, Oregon Laws 2005, is amended to read:

11 21.010. (1) Except as provided in subsection (2) of this section, the appellant in an appeal or the
12 petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee
13 of \$154 in the manner prescribed by ORS 19.265. The respondent in such case and any other person
14 appearing in the appeal, upon entering first appearance or filing first brief in the court, shall pay
15 to the State Court Administrator the sum of [*\$105*] **\$154**. The party entitled to costs and disburse-
16 ments on such appeal shall recover from the opponent the amount so paid.

17 (2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings

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

1 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
2 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or
3 allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psy-
4 chiatric Security Review Board under ORS 161.385 (9) or orders of the State Board of Parole and
5 Post-Prison Supervision.

6 (3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court
7 from a justice court or municipal court in an action alleging commission of a state offense desig-
8 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an
9 action alleging commission of a state crime.

10 (4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding
11 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

12 **SECTION 2.** ORS 21.110, as amended by section 11, chapter 702, Oregon Laws 2005, is amended
13 to read:

14 21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court
15 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect
16 from the plaintiff, appellant or moving party the sum of \$107 as a flat and uniform filing fee. In ad-
17 dition, at the time of filing any appearance in any such action, suit or proceeding by any defendant
18 or respondent appearing separately, or upon the part of defendants or respondents appearing jointly,
19 the clerk shall collect from the party or parties the sum of [~~\$83~~] **\$107** as a flat and uniform filing
20 fee.

21 (2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 as a flat
22 and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed,
23 and shall collect the sum of [~~\$53~~] **\$68** as a flat and uniform filing fee from any defendant or re-
24 spondent appearing separately, or upon the part of defendants or respondents appearing jointly, at
25 the time of filing any appearance in the action:

26 (a) Actions for the recovery of money or damages only when the amount claimed does not ex-
27 ceed \$10,000.

28 (b) Actions for the recovery of specific personal property when the value of the property claimed
29 and the damages for the detention do not exceed \$10,000.

30 (c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out
31 of contract, not exceeding \$10,000.

32 (d) Actions to enforce, marshal and foreclose liens upon personal property where the amount
33 claimed for such liens does not exceed \$10,000.

34 (e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the
35 value of the property involved does not exceed \$10,000.

36 (f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed
37 does not exceed \$10,000.

38 (3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the
39 petitioner in a proceeding under ORS 181.607 or 181.608, at the time the petition is filed. Fees
40 collected under this subsection shall be deposited into the Judicial Department Operating Account
41 established in ORS 1.009.

42 (4) For purposes of subsection (2) of this section, the amount claimed, value of property, damages
43 or any amount in controversy does not include any amount claimed as costs and disbursements or
44 attorney fees as defined by ORCP 68 A.

45 (5) A paper or pleading shall be filed by the clerk only if the fee required under this section is

1 paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is granted
2 by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall
3 cover all services to be performed by the court or clerk in any such action, suit or proceeding, ex-
4 cept where additional fees are specially authorized by law.

5 (6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or ap-
6 pearance that is subject to the filing fees established under subsection (2) of this section must in-
7 clude in the caption of the pleading the following words: "Claim of not more than \$10,000."

8 (7) The fees imposed by this section do not apply to:

9 (a) Protective proceedings under ORS chapter 125;

10 (b) Proceedings for dissolution of marriage, annulment of marriage or separation;

11 (c) Filiation proceedings under ORS 109.124 to 109.230;

12 (d) Proceedings to determine custody or support of a child under ORS 109.103;

13 (e) Probate, adoption or change of name proceedings;

14 (f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee
15 is provided by ORS 105.130; or

16 (g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the
17 action or proceeding.

18 (8) The fees described in this section shall not be charged to a district attorney or to the Divi-
19 sion of Child Support of the Department of Justice for the filing of any case, motion, document,
20 stipulated order, process or other document relating to the provision of support enforcement ser-
21 vices as described in ORS 25.080.

22 **SECTION 3.** ORS 21.111, as amended by section 15, chapter 702, Oregon Laws 2005, is amended
23 to read:

24 21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit
25 court shall collect the sum of \$99 as a flat and uniform filing fee from the petitioner at the time the
26 petition is filed, and shall collect the sum of [~~\$51~~] **\$80** as a flat and uniform filing fee from the re-
27 spondent upon the respondent making an appearance.

28 (2) The filing [~~fee~~] **fees** established by subsection (1) of this section shall be collected by the
29 clerk in the following proceedings:

30 (a) Proceedings for dissolution of marriage, annulment of marriage or separation.

31 (b) Filiation proceedings under ORS 109.124 to 109.230.

32 (c) Proceedings to determine custody or support of a child under ORS 109.103.

33 (3) In addition to all other fees collected, the clerk of the circuit court shall collect from the
34 moving party a fee of \$50 at the time of the filing of a motion after entry of a judgment of marital
35 annulment, dissolution or separation. A fee of [~~\$35~~] **\$40** shall be charged to the responding party at
36 the time a response is filed to the motion. The fee provided for in this subsection does not apply to
37 any pleading under ORCP 68, 69 or 71.

38 (4) A paper or pleading shall be filed by the clerk only if the fee required under this section is
39 paid or if a request for a fee waiver or deferral is granted by the court. No part of any such filing
40 fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the
41 court or clerk in any of the proceedings, except where additional fees are specially authorized by
42 law.

43 (5) Any petitioner or respondent that files a petition or appearance that is subject to the filing
44 fees established under subsection (1) of this section must include in the caption of the pleading the
45 following words: "Domestic relations case subject to fee under ORS 21.111."

1 (6) The fees described in this section shall not be charged to a district attorney or to the Divi-
2 sion of Child Support of the Department of Justice for the filing of any case, motion, document,
3 stipulated order, process or other document relating to the provision of support enforcement ser-
4 vices as described in ORS 25.080.

5 **SECTION 4.** ORS 21.114, as amended by section 19, chapter 702, Oregon Laws 2005, is amended
6 to read:

7 21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

8 (a) In an adoption proceeding, a first appearance fee of \$39 from the party filing the petition for
9 adoption, and a first appearance fee of [~~\$23~~] **\$39** from an objecting party appearing separately or
10 objecting parties appearing jointly.

11 (b) In a change of name proceeding, a first appearance fee of \$39 from the party filing the ap-
12 plication for change of name, and a first appearance fee of [~~\$23~~] **\$39** from an objecting party ap-
13 pearing separately or objecting parties appearing jointly.

14 (2) A paper or pleading shall be filed by the clerk only if the fee required under this section is
15 paid or if a request for a fee waiver or deferral is granted by the court.

16 (3) In any adoption or change of name proceeding in a court having jurisdiction, the clerk of the
17 court shall charge and collect in advance from the party having the affirmative of the issue, at the
18 time the proceeding comes on for trial or hearing upon the issues of fact or law involved therein,
19 a trial or hearing fee of \$39.

20 **SECTION 5.** ORS 36.520, as amended by section 43, chapter 702, Oregon Laws 2005, is amended
21 to read:

22 36.520. (1) Recourse to a court against an arbitral award may only be by an application for
23 setting aside in accordance with subsections (2) and (3) of this section.

24 (2) An arbitral award may be set aside by the circuit court only if:

25 (a) The party making application furnishes proof that:

26 (A) A party to the arbitration agreement referred to in ORS 36.466 was under some incapacity
27 or that the agreement is not valid under the law to which the parties have subjected it or, failing
28 any indication thereon, under the laws of the State of Oregon or the United States;

29 (B) The party making the application was not given proper notice of the appointment of an
30 arbitrator or of the arbitral proceedings or was otherwise unable to present the party's case;

31 (C) The award deals with a dispute not contemplated by or not falling within the terms of the
32 submission to arbitration or contains decisions on matters beyond the scope of the submission to
33 arbitration, provided that, if the decisions on matters not submitted to arbitration can be separated
34 from those not so submitted, only that part of the award which contains decisions on matters not
35 submitted to arbitration may be set aside; or

36 (D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance
37 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS
38 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-
39 cordance with ORS 36.450 to 36.558; or

40 (b) The circuit court finds that:

41 (A) The subject matter of the dispute is not capable of settlement by arbitration under the laws
42 of the State of Oregon or of the United States; or

43 (B) The award is in conflict with the public policy of the State of Oregon or of the United
44 States.

45 (3) An application for setting aside may not be made after three months have elapsed from the

1 date on which the party making that application had received the award or, if a request had been
2 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral
3 tribunal.

4 (4) The circuit court, when asked to set aside an arbitral award, may, where appropriate and
5 so requested by a party, suspend the setting aside proceedings for a period of time determined by
6 it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take
7 such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

8 (5) The clerk of the circuit court shall collect from the party making application for setting
9 aside under subsection (1) of this section a filing fee of \$39 and from a party filing an appearance
10 in opposition to the application a filing fee of [~~\$23~~] **\$39**. However, if the application relates to an
11 arbitral award made following an application or request to a circuit court under any section of ORS
12 36.450 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing fees
13 shall not be collected under this subsection. An application for setting aside or an appearance in
14 opposition thereto shall not be deemed filed unless the fee required by this subsection is paid by the
15 filing party.

16 **SECTION 6.** ORS 36.615, as amended by section 47, chapter 702, Oregon Laws 2005, is amended
17 to read:

18 36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief under
19 ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this
20 subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an
21 arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons
22 responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If sub-
23 sequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no
24 additional filing fees shall be required of the parties.

25 (b) If the first petition relating to an arbitration proceeding is a petition to seek confirmation,
26 vacation, modification or correction of an award under ORS 36.700, 36.705 or 36.710, the person fil-
27 ing the petition must pay a fee of \$39, and a person filing an appearance in opposition to the petition
28 must pay a filing fee of [~~\$23~~] **\$39**.

29 (c) If a civil action is pending relating to the same dispute that is the subject of the arbitration,
30 and filing fees were paid for that action under ORS 21.110, filing fees may not be charged under this
31 subsection for the filing of any petition under ORS 36.600 to 36.740.

32 (2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first petition
33 to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7 D.
34 Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

35 **SECTION 7.** ORS 46.570, as amended by section 51, chapter 702, Oregon Laws 2005, is amended
36 to read:

37 46.570. (1) In the small claims department of circuit court there shall be charged and collected
38 in civil cases by the clerk of the court the following fees for the following purposes and services:

39 (a)(A) Plaintiff filing a claim, \$26 when the amount or value claimed does not exceed \$1,500, and
40 \$55 when the amount or value claimed exceeds \$1,500; and

41 (B) Defendant demanding a hearing, [~~\$21~~] **\$24** when the amount or value claimed by plaintiff
42 does not exceed \$1,500, and [~~\$43~~] **\$50** when the amount or value claimed by plaintiff exceeds \$1,500.

43 (b) Transcription of judgment from small claims department, \$7.

44 (c) Transfer of cause to circuit court on counterclaim, \$12.

45 (2) Except as otherwise provided in subsection (1) of this section, fees provided for in this sec-

1 tion shall be collected in advance. A paper or pleading shall be filed by the clerk only if the required
2 fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided for in
3 this section may not be refunded.

4 **SECTION 8.** ORS 105.130, as amended by section 55, chapter 702, Oregon Laws 2005, is
5 amended to read:

6 105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,
7 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of
8 this state.

9 (2) Upon filing a complaint in the case of a dwelling unit to which ORS chapter 90 applies, the
10 clerk shall:

11 (a) Collect a filing fee of \$13;

12 (b) Collect any other fee authorized by law or ordinance; and

13 (c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable
14 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons
15 and complaint for service.

16 (3) After a complaint is filed under subsection (2) of this section, if the defendant demands a
17 trial, the plaintiff shall pay an additional filing fee of \$29 and the defendant shall pay a filing fee
18 of [~~\$33~~] **\$42**.

19 (4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to
20 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to
21 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent
22 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

23 (5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state agency may appear in an
24 action brought pursuant to ORS 105.110 through an officer or employee of the agency if:

25 (a) The Attorney General consents to the representation of the agency by an officer or employee
26 in the particular action or in the class of actions that includes the particular action; and

27 (b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the partic-
28 ular type of action being conducted.

29 (6) In addition to the fees charged under subsection (2) of this section, the clerk shall collect a
30 surcharge from the plaintiff at the time a complaint is filed that is subject to the filing fees estab-
31 lished by subsection (2) of this section and from a defendant at the time a defendant demands a trial
32 in the action. The surcharge shall be deposited by the State Court Administrator into the State
33 Treasury to the credit of the Housing and Community Services Department Low Income Rental
34 Housing Fund established by ORS 458.350. The amount of the surcharge shall be \$10.

35 (7) Fees and surcharges provided for in this section may not be refunded.

36 **SECTION 9. The amendments to ORS 21.010, 21.110, 21.111, 21.114, 36.520, 36.615, 46.570**
37 **and 105.130 by sections 1 to 8 of this 2007 Act apply only to filings made on or after Sep-**
38 **tember 1, 2007.**

39
40 **FEES FOR WRITS OF GARNISHMENT**

41
42 **SECTION 10.** ORS 21.325, as amended by section 35, chapter 702, Oregon Laws 2005, is
43 amended to read:

44 21.325. In the circuit court there shall be charged and collected in advance by the clerk of the
45 court the following fees for the following purposes and services:

1 (1) Making transcription of a judgment entered in the register, \$7.

2 (2) Filing and entering transcript of judgment, \$7.

3 (3) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or
4 copy of child custody determination of another state filed as provided in ORS 109.787, \$39.

5 (4) Issuing writs of execution or writs of garnishment, [\$7] **\$12** for each writ.

6 (5) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$6.

7 (6) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is
8 issued by any court other than the court in which the original judgment was entered, \$4.

9 (7) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

10 (8) For any service the clerk may be required or authorized to perform and for which no fee is
11 provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize,
12 except that a fee may not be charged for location or inspection of court records.

13 **SECTION 11.** ORS 18.999, as amended by section 31 of this 2007 Act, is amended to read:

14 18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff
15 has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes proce-
16 dures for that recovery. The following apply to this section:

17 (1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff
18 may proceed as follows:

19 (a) Before crediting the total amount of moneys received against the judgment or debt, the
20 plaintiff may recover and keep from the total amount received under the garnishment, attachment
21 or payment any moneys allowed to be recovered under this section.

22 (b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall
23 credit the remainder of the moneys received against the judgment or debt as provided by law.

24 (2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid
25 on and to be credited against the original judgment or debt sought to be enforced. No additional
26 judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

27 (3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those
28 described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific
29 judgment or debt that the specific garnishment or attachment was issued to enforce or upon which
30 the payment was received. Moneys recoverable under subsection (1)(a) of this section remain re-
31 coverable and, except as provided under subsection (8) of this section, may be recovered from mon-
32 eys received by the plaintiff under subsequent garnishments, attachments or payments on the same
33 specific judgment or debt.

34 (4) This section allows the recovery only of the following:

35 (a) Statutorily established moneys that meet the requirements under subsection (3) of this sec-
36 tion, as follows:

37 (A) Garnishee's search fees under ORS 18.790.

38 (B) Fees for delivery of writs of garnishment under ORS 18.652.

39 (C) Circuit court fees as provided under ORS 21.325.

40 (D) County court fees as provided under ORS 5.125.

41 (E) County clerk recording fees as provided in ORS 205.320.

42 (F) Actual fees or disbursements made under ORS 21.410.

43 (G) Costs of execution as provided in ORS 105.112.

44 (H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [\$7] **\$12** for
45 each garnishment.

1 (I) Costs of an execution sale as described in ORS 18.950 (2).

2 (J) Fees paid under section 29 of this 2007 Act for motions and responses to motions filed after
3 entry of a judgment.

4 (b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for
5 judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and
6 ending upon recovery of the amount under this section.

7 (5) The plaintiff shall be responsible for doing all of the following:

8 (a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section
9 and making the accounting available for any proceeding relating to that judgment or debt.

10 (b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under sub-
11 section (1)(a) of this section.

12 (6) Moneys recovered under subsection (1)(a) of this section remain subject to all other pro-
13 visions of law relating to payments, or garnished or attached moneys including, but not limited to,
14 those relating to exemption, claim of exemption, overpayment and holding periods.

15 (7) Nothing in this section limits the right of a plaintiff to recover moneys described in this
16 section or other moneys in any manner otherwise allowed by law.

17 (8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recov-
18 erable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced
19 to a judgment or to a debt enforceable under ORS 18.854.

20 **SECTION 12. The amendments to ORS 18.999 and 21.325 by sections 10 and 11 of this 2007**
21 **Act apply only to writs of execution and writs of garnishment issued on or after September**
22 **1, 2007.**

23
24 **LAW LIBRARY FEES**

25
26 **SECTION 13.** ORS 21.350 is amended to read:

27 21.350. (1) In counties containing more than 400,000 inhabitants, according to the latest federal
28 decennial census, or when directed as provided in ORS 9.840, the clerk of the court shall collect in
29 each civil suit, action or proceeding filed in the circuit or county court a law library fee determined
30 by the county court or board of county commissioners in an amount not greater than [33] **28** percent
31 of the filing fee provided by law, except that the amount shall be rounded up to the next full dollar.

32 (2) The fees provided for in this section shall be collected in the same manner as other fees are
33 collected in the suit, action or proceeding, and is in addition to the other fees provided by law.

34 (3) The fee provided in subsection (1) of this section may be collected if the county owns and
35 maintains, or hereafter may acquire, own or maintain under the provisions of ORS 9.840 and 9.850,
36 a law library at the county seat, available at all reasonable times to the use of litigants, and per-
37 mitted to be used by all attorneys at law duly admitted to practice in this state, without additional
38 fees to such litigants or attorneys.

39 (4) For the purpose of imposing the law library fee provided for in this section in cases that are
40 subject to the filing fees established by ORS 105.130, the percentage figure provided for under sub-
41 section (1) of this section shall be applied to the sum of the fee established by ORS 105.130 (2) and
42 the surcharge established under ORS 105.130 (6). If the defendant demands a trial in the action, the
43 percentage figure provided for under subsection (1) of this section shall be applied to the additional
44 filing fee required of the plaintiff under ORS 105.130 (3), and to the sum of the filing fee required
45 of the defendant under ORS 105.130 (3) and the surcharge established under ORS 105.130 (6).

1 ing September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect
2 from the plaintiff, appellant or moving party, for a trial on the merits without a jury, a
3 surcharge on the trial fee of \$4 for each full or partial day of the trial.

4 (b) In addition to the jury trial fee provided for in ORS 21.270 (3), for the period com-
5 mencing September 1, 2007, and ending June 30, 2009, the clerk shall collect from the plaintiff
6 or appellant, for a trial by a jury of more than six persons, a surcharge on the jury trial fee
7 of \$10 for each full or partial day of the trial. The clerk shall collect from the plaintiff or
8 appellant, for a trial by a jury of six persons, a surcharge on the jury trial fee of \$6 for each
9 full or partial day of the trial.

10 (7) In addition to the hearing fee provided for in ORS 21.275 (3), for the period com-
11 mencing September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall
12 collect a surcharge on the hearing fee of \$2 if the hearing period is not more than three
13 hours or \$4 if the hearing period is more than three hours.

14 (8)(a) In addition to the fees provided for in ORS 21.310 (1), for the period commencing
15 September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect the following
16 surcharges for the filing of the initial papers in any probate proceeding, including petitions
17 for the appointment of personal representatives, probate of wills and contest of wills, or in
18 any conservatorship proceeding:

21 Where the amount of the estate is:

- 22 1. Not more than \$10,000--a surcharge of \$1.
 - 23 2. More than \$10,000 and not more than \$25,000--a surcharge of \$4.
 - 24 3. More than \$25,000 and not more than \$50,000--a surcharge of \$8.
 - 25 4. More than \$50,000 and not more than \$100,000--a surcharge of \$12.
 - 26 5. More than \$100,000 and not more than \$500,000--a surcharge of \$15.
 - 27 6. More than \$500,000 and not more than \$1,000,000--a surcharge of \$19.
 - 28 7. More than \$1,000,000--a surcharge of \$23.
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30
31 (b) In addition to the fee provided for in ORS 21.310 (3), for the period commencing Sep-
32 tember 1, 2007, and ending June 30, 2009, the clerk shall collect a surcharge of \$1 for the
33 filing of the initial papers in any guardianship proceeding.

34 (c) In addition to the fee provided for in ORS 21.310 (5), for the period commencing Sep-
35 tember 1, 2007, and ending June 30, 2009, at the time of filing any answer, motion or objection
36 in a probate proceeding or protective proceeding under ORS chapter 125, the party filing the
37 answer, motion or objection shall pay a surcharge of \$1 to the clerk.

38 (d) In addition to the fee provided for in ORS 21.310 (7), for the period commencing Sep-
39 tember 1, 2007, and ending June 30, 2009, the clerk shall collect from the party having the
40 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the
41 issues of fact or law involved therein, a surcharge on the trial or hearing fee of \$2.

42 (9) In addition to the fees provided for in ORS 21.325 (3), for the period commencing
43 September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge
44 of \$2 for the filing of a copy of foreign judgment and affidavit filed as provided in ORS 24.115
45 and 24.125 or the filing of a copy of child custody determination of another state filed as

1 provided in ORS 109.787.

2 (10) In addition to the fee provided for in ORS 34.340, for the period commencing Sep-
3 tember 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge of
4 \$1 upon the filing of a petition for a writ of habeas corpus.

5 (11) In addition to the fees provided for in ORS 36.520 (5), for the period commencing
6 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect from
7 the party making application for setting aside under ORS 36.520 (1) a surcharge of \$2 and
8 from a party filing an appearance in opposition to the application a surcharge of \$1.

9 (12) In addition to the fee provided for in ORS 36.522 (3), for the period commencing
10 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a
11 surcharge of \$1 for the filing of an arbitral award or application for enforcement of an
12 arbitral award under ORS 36.522.

13 (13) In addition to the fee provided for in ORS 36.524 (1), for the period commencing
14 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a
15 surcharge of \$1 for the filing under ORS 36.524 (1).

16 (14) In addition to the fee provided for in ORS 36.615 (1)(b), for the period commencing
17 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a
18 surcharge of \$2 upon the filing of a petition to seek confirmation, vacation, modification or
19 correction of an award under ORS 36.700, 36.705 or 36.710, and a surcharge of \$1 from a
20 person filing an appearance in opposition to the petition.

21 (15) In addition to the fees provided for in ORS 46.570 (1), for the period commencing
22 September 1, 2007, and ending June 30, 2009, in the small claims department of a circuit court
23 the clerk of the court shall collect:

24 (a) A \$1 surcharge when a plaintiff files a claim and the amount or value claimed does
25 not exceed \$1,500;

26 (b) A \$2 surcharge when a plaintiff files a claim and the amount or value claimed exceeds
27 \$1,500;

28 (c) A \$1 surcharge when a defendant demands a hearing and the amount or value claimed
29 by the plaintiff does not exceed \$1,500; and

30 (d) A \$2 surcharge when a defendant demands a hearing and the amount or value claimed
31 by the plaintiff exceeds \$1,500.

32 (16)(a) In addition to the fees provided for in ORS 105.130 (2), for the period commencing
33 September 1, 2007, and ending June 30, 2009, upon filing a complaint in the case of a dwelling
34 unit to which ORS chapter 90 applies, the clerk of the court shall collect a surcharge of \$3.

35 (b) In addition to the fees provided for in ORS 105.130 (3), for the period commencing
36 September 1, 2007, and ending June 30, 2009, if the defendant demands a trial after a com-
37 plaint is filed under ORS 105.130 (2), the plaintiff shall pay a surcharge of \$2.

38 (17) In addition to the fee provided for in ORS 107.434 (1), for the period commencing
39 September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge
40 of \$3 upon the filing of a motion seeking enforcement of a parenting time order or a sub-
41 stantial violation of a parenting plan.

42 (18) In addition to the fee provided for in ORS 112.820 (1)(d), for the period commencing
43 September 1, 2007, and ending June 30, 2009, the clerk of the probate court shall collect a
44 surcharge of \$1 for filing of an affidavit under ORS 112.820 (1).

45 (19) In addition to the fee provided for in ORS 114.515 (6), for the period commencing

1 September 1, 2007, and ending June 30, 2009, the clerk of the probate court shall collect a
2 surcharge of \$1 upon the filing of an affidavit under ORS 114.515.

3 (20) In addition to the fee provided for in ORS 130.200 (8)(a), for the period commencing
4 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a
5 surcharge of \$3 for the filing of an agreement or memorandum of agreement under ORS
6 130.200 (6) and a surcharge of \$2 for the filing of objections under ORS 130.200 (7).

7 (21) In addition to the fee provided for in ORS 138.560, for the period commencing Sep-
8 tember 1, 2007, and ending June 30, 2009, a petitioner shall pay a surcharge of \$1 at the time
9 of filing a petition under ORS 138.560.

10 (22) In addition to the fee provided for in ORS 166.274, for the period commencing Sep-
11 tember 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge of
12 \$5 for the filing of a petition for relief under ORS 166.274.

13 (23) In addition to the fee provided for in ORS 419B.555 (6), for the period commencing
14 September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge
15 of \$4 for each application for emancipation under ORS 419B.555.

16
17 **PREVAILING PARTY FEES**
18

19 **SECTION 16.** ORS 20.190 is amended to read:

20 20.190. (1) Except as provided in subsections (2) to (5) of this section, a prevailing party in a
21 civil action or proceeding who has a right to recover costs and disbursements in the following cases
22 also has a right to recover, as a part of the costs and disbursements, the following additional
23 amounts:

24 (a) In the Supreme Court or Court of Appeals, on an appeal, \$100.

25 (b) In a circuit court:

26 (A) When judgment is given without trial of an issue of law or fact or on an appeal, \$60; or

27 (B) When judgment is given after trial of an issue of law or fact, \$85.

28 (c) In a small claims department, a county court or justice court, one-half of the amount pro-
29 vided for in paragraph (b) of this subsection.

30 (2) In lieu of the prevailing party fee provided for in subsection (1) of this section, in any civil
31 action or proceeding in which recovery of money or damages is sought, a prevailing party who has
32 a right to recover costs and disbursements also has a right to recover, as a part of the costs and
33 disbursements, the following additional amounts:

34 (a) In a circuit court:

35 (A) When judgment is given without trial of an issue of law or fact, \$275; or

36 (B) When judgment is given after trial of an issue of law or fact, \$550.

37 (b) In a small claims department, a county court or justice court:

38 (A) When judgment is given without trial of an issue of law or fact, [~~\$75~~] **\$85**; or

39 (B) When judgment is given after trial of an issue of law or fact, \$100.

40 (3) In addition to the amounts provided for in subsection (2) of this section, in any civil action
41 or proceeding in a circuit court in which recovery of money or damages is sought, the court may
42 award to the prevailing party up to an additional \$5,000 as a prevailing party fee. The court shall
43 consider the following factors in making an award under the provisions of this subsection:

44 (a) The conduct of the parties in the transactions or occurrences that gave rise to the litigation,
45 including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

1 (b) The objective reasonableness of the claims and defenses asserted by the parties.

2 (c) The extent to which an award of a larger prevailing party fee in the case would deter others
3 from asserting good faith claims or defenses in similar cases.

4 (d) The extent to which an award of a larger prevailing party fee in the case would deter others
5 from asserting meritless claims and defenses.

6 (e) The objective reasonableness of the parties and the diligence of the parties and their attor-
7 neys during the proceedings.

8 (f) The objective reasonableness of the parties and the diligence of the parties in pursuing
9 settlement of the dispute.

10 (g) Any award of attorney fees made to the prevailing party as part of the judgment.

11 (h) Such other factors as the court may consider appropriate under the circumstances of the
12 case.

13 (4) Nonprevailing parties are jointly liable for the prevailing party fees provided for in this
14 section. A court may not award more than one prevailing party fee to a prevailing party under this
15 section, or more than one prevailing party fee against a nonprevailing party regardless of the num-
16 ber of parties in the action, and, upon being paid the amount of the award, the prevailing party may
17 not seek recovery of any additional amounts under the provisions of this section from any other
18 nonprevailing party.

19 (5) In any appeal from the award or denial of a prevailing party fee under subsection (2) of this
20 section, the court reviewing the award may not modify the decision of the court in making or de-
21 nying an award, or the decision of the court as to the amount of the award, except upon a finding
22 of an abuse of discretion.

23 (6) The prevailing party fees provided for in this section may not be awarded in the following
24 proceedings:

25 (a) A class action proceeding under ORCP 32.

26 (b) A condemnation proceeding.

27 (c) Proceedings under the provisions of ORS chapters 25, 107, 108, 109 and 110.

28 (7) Mandatory arbitration under ORS 36.400 to 36.425 does not constitute a trial of an issue of
29 law or fact for the purposes of this section.

30 **SECTION 17. The amendments to ORS 20.190 by section 16 of this 2007 Act apply only to**
31 **judgments entered on or after September 1, 2007.**

32
33 **INTERIM COMMITTEE ON COURT FACILITIES**

34
35 **SECTION 18. (1) There is created the Interim Committee on Court Facilities, consisting**
36 **of members appointed by the President of the Senate and the Speaker of the House of Rep-**
37 **resentatives. The Chief Justice of the Supreme Court, the Association of Oregon Counties**
38 **and the Oregon State Bar shall designate liaisons to the committee.**

39 **(2) The interim committee shall evaluate the status of state court facilities, make rec-**
40 **ommendations to the Seventy-fifth Legislative Assembly on standards for reasonable and**
41 **sufficient court facilities and the cost of meeting those standards, and develop a proposal for**
42 **ensuring that needed improvements to court facilities are made.**

43 **(3) A majority of the members of the interim committee constitutes a quorum for the**
44 **transaction of business.**

45 **(4) Official action by the interim committee requires the approval of a majority of the**

1 members of the interim committee.

2 (5) The interim committee shall elect one of its members to serve as chairperson.

3 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
4 ment to become immediately effective.

5 (7) The interim committee shall meet at times and places specified by the call of the
6 chairperson or of a majority of the members of the interim committee.

7 (8) The interim committee may adopt rules necessary for the operation of the interim
8 committee.

9 (9) The interim committee shall report to the Legislative Assembly in the manner pro-
10 vided in ORS 192.245 at any time within 30 days after its final meeting or at such later time
11 as the President and Speaker may designate.

12 (10) The Legislative Administrator may employ persons necessary for the performance
13 of the functions of the interim committee. The administrator shall fix the duties and
14 amounts of compensation of these employees. The interim committee shall use the services
15 of permanent legislative staff to the greatest extent practicable.

16 (11) All agencies of state government, as defined in ORS 174.111, are directed to assist
17 the interim committee in the performance of its duties and, to the extent permitted by laws
18 relating to confidentiality, to furnish such information and advice as the members of the
19 interim committee consider necessary to perform their duties. The Oregon Department of
20 Administrative Services shall provide technical support to the committee.

21 SECTION 19. Section 18 of this 2007 Act is repealed on the date of the convening of the
22 next regular biennial legislative session.

23 SECTION 20. In addition to and not in lieu of any other appropriation, there is appro-
24 priated to the Legislative Administration Committee, for the biennium beginning July 1, 2007,
25 out of the General Fund, the amount of \$600,000, which may be expended for the costs of the
26 Interim Committee on Court Facilities created under section 18 of this 2007 Act.

27
28 **INTERIM COMMITTEE ON COURT TECHNOLOGY**

29
30 SECTION 21. (1) There is created the Interim Committee on Court Technology, consisting
31 of members appointed by the President of the Senate and the Speaker of the House of Rep-
32 resentatives. The Chief Justice of the Supreme Court and the Oregon State Bar shall desig-
33 nate liaisons to the committee.

34 (2) The interim committee shall evaluate the technology transition plan of the Judicial
35 Department and shall make recommendations at the next regular or special session of the
36 Legislative Assembly on the department's strategic plan, deliverables under the plan, costs
37 of the plan, funding of the plan and oversight of the department's technology initiatives.

38 (3) A majority of the members of the interim committee constitutes a quorum for the
39 transaction of business.

40 (4) Official action by the interim committee requires the approval of a majority of the
41 members of the interim committee.

42 (5) The interim committee shall elect one of its members to serve as chairperson.

43 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
44 ment to become immediately effective.

45 (7) The interim committee shall meet at times and places specified by the call of the

1 chairperson or of a majority of the members of the interim committee.

2 (8) The interim committee may adopt rules necessary for the operation of the interim
3 committee.

4 (9) The interim committee shall report to the Legislative Assembly in the manner pro-
5 vided in ORS 192.245 at any time within 30 days after its final meeting or at such later time
6 as the President and Speaker may designate.

7 (10) The Legislative Administrator may employ persons necessary for the performance
8 of the functions of the interim committee, including but not limited to a technical expert to
9 assist the committee in evaluating the Judicial Department's technology transition plan and
10 making recommendations on the plan and its implementation. The administrator shall fix the
11 duties and amounts of compensation of these employees. The interim committee shall use
12 the services of permanent legislative staff to the greatest extent practicable.

13 (11) All agencies of state government, as defined in ORS 174.111, are directed to assist
14 the interim committee in the performance of its duties and, to the extent permitted by laws
15 relating to confidentiality, to furnish such information and advice as the members of the
16 interim committee consider necessary to perform their duties. The Oregon Department of
17 Administrative Services shall provide technical support to the committee.

18 SECTION 22. Section 21 of this 2007 Act is repealed on the date of the convening of the
19 next regular biennial legislative session.

20 SECTION 23. In addition to and not in lieu of any other appropriation, there is appro-
21 priated to the Legislative Administration Committee, for the biennium beginning July 1, 2007,
22 out of the General Fund, the amount of \$150,000, which may be expended for the expenses
23 of the Interim Committee on Court Technology created under section 21 of this 2007 Act.

24
25 **LEGAL AID FEES**

26
27 SECTION 24. ORS 21.480 is amended to read:

28 21.480. (1) In all counties wherein legal representation is provided for the poor without fee by
29 a nonprofit legal aid program operating under the Legal Services Program established pursuant to
30 ORS 9.572, the clerk of the circuit court shall collect the fees provided for in subsection (2) of this
31 section to assist in defraying the operating costs of the legal aid program and to fund mediation
32 programs offered through the State Department of Agriculture. The fees provided for in subsection
33 (2) of this section are in addition to all other fees collected by the clerk of the court and shall be
34 collected by the clerk in the same manner that other fees are collected by the clerk.

35 (2) The clerk shall collect the following fees from the plaintiff or other moving party in each
36 civil suit, action or proceeding in the circuit court when the plaintiff or party files the first paper
37 in the suit, action or proceeding, and from a defendant or respondent when the defendant or re-
38 spondent files an appearance in the suit, action or proceeding:

39 (a) [~~\$9.50~~] **\$10.50**, for filings in the small claims department of a circuit court.

40 (b) [~~\$18~~] **\$20**, upon the filing of a complaint that is subject to the filing fee established under
41 ORS 105.130 (2). If the defendant demands a trial, the clerk shall collect a fee of [~~\$38~~] **\$41** from the
42 defendant, and an additional fee of [~~\$21~~] **\$23** from the plaintiff. In no event shall the plaintiff in an
43 action subject to the filing fee established under ORS 105.130 be required to pay a total fee of more
44 than [~~\$39~~] **\$43** under the provisions of this subsection.

45 (c) [~~\$33~~] **\$35**, if the action, suit or proceeding is subject to the filing fees established by ORS

1 21.111.

2 (d) [~~\$30~~] **\$32**, if the action, suit or proceeding is subject to the filing fees established by ORS
3 21.110 (2).

4 (e) [~~\$38~~] **\$41**, for any other filings in a circuit court not specifically provided for in this sub-
5 section, including all probate proceedings, protective proceedings under ORS chapter 125, adoption
6 proceedings and change of name proceedings.

7 (3) In addition to the fees provided for in ORS 21.010, the State Court Administrator shall collect
8 a fee of [~~\$55~~] **\$58** from an appellant or petitioner whenever a filing fee is collected under ORS 21.010
9 and a fee of [~~\$15~~] **\$18** from each respondent whenever an appearance fee is collected under ORS
10 21.010.

11 (4) All fees collected by the clerk under this section shall be deposited with the State Court
12 Administrator. All fees collected under this section shall be distributed in the manner provided by
13 ORS 9.574.

14 (5) Ten percent of the funds deposited with the State Court Administrator under this section
15 shall be transferred by the State Court Administrator on a monthly basis to the State Department
16 of Agriculture, until such time as the amount specified under subsection (6) of this section has been
17 transferred to the State Department of Agriculture for the biennium. Moneys transferred to the
18 State Department of Agriculture under this section are continuously appropriated to the department
19 and may be used by the department only for the purpose of funding mediation programs established
20 by the department. Moneys appropriated to the department under this subsection may not be used
21 by the department to fund the costs of conducting individual farm credit mediations. The depart-
22 ment shall consult with the director of the Mark O. Hatfield School of Government in establishing
23 and operating mediation programs funded under this subsection.

24 (6) The amount transferred by the State Court Administrator to the State Department of Agri-
25 culture under subsection (5) of this section may not exceed \$150,000 in any biennium.

26 **SECTION 25. The amendments to ORS 21.480 by section 24 of this 2007 Act apply only to**
27 **filings made in circuit courts on or after July 1, 2009.**

28
29 **DISPUTE RESOLUTION SURCHARGE**

30
31 **SECTION 26.** ORS 36.170 is amended to read:

32 36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the
33 time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected
34 from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected
35 from a defendant or respondent upon making appearance. The amount of the surcharge shall be:

36 (a) [~~\$9~~] **\$6**, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110
37 (1), 21.310 or any other filing fee not specifically provided for in this section.

38 (b) [~~\$7~~] **\$5**, if the action, suit or proceeding is subject to the filing fees established by ORS 21.110
39 (2) or 105.130, or if the action is filed in the small claims department of circuit court and the amount
40 or value claimed exceeds \$1,500.

41 (c) [~~\$5~~] **\$3**, if the action, suit or proceeding is subject to the filing fees established by ORS
42 21.111.

43 (d) [~~\$3~~] **\$2**, if the action is filed in the small claims department of circuit court and the amount
44 or value claimed does not exceed \$1,500.

45 (2) All surcharges collected under this section shall be deposited by the State Court Adminis-

1 trator into the State Treasury to the credit of the General Fund.

2 **SECTION 27.** The amendments to ORS 36.170 by section 26 of this 2007 Act apply only to
3 filings made in circuit courts on or after July 1, 2009.

4
5 **FEES ON MOTIONS**
6

7 **SECTION 28.** Section 29 of this 2007 Act is added to and made a part of ORS chapter 21.

8 **SECTION 29.** (1) In any action, suit or proceeding subject to a fee under ORS 21.110, or
9 in any civil appeal or petition subject to a fee under ORS 21.010, the Chief Justice of the
10 Supreme Court may require that a \$50 fee be paid at the time of filing a motion identified
11 by the Chief Justice as being subject to a fee under this section. If the Chief Justice has
12 identified a motion as being subject to a fee under this section, the responding party must
13 file a fee of \$35 upon the filing of a response to the motion. The Chief Justice by order shall
14 identify motions that are subject to fees under this section.

15 (2) The fees provided for in this section may not be collected from the state, a county,
16 a city or a school district.

17 (3) The fees provided for in this section may not be collected for motions for judgment
18 by voluntary dismissal under ORCP 54 A(1), for motions for judgment by written stipulation
19 under ORCP 67 F or for motions for entry of default judgment under ORCP 69 B(1).

20 (4) The fees provided for in this section may not be collected for motions made to an
21 arbitrator or mediator in an arbitration or mediation required or offered by a court, or to
22 any motion relating to an arbitration or mediation required or offered by a court.

23 **SECTION 30.** Section 29 of this 2007 Act applies only to motions and responses to motions
24 filed on or after September 1, 2007.

25 **SECTION 31.** ORS 18.999 is amended to read:

26 18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff
27 has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes proce-
28 dures for that recovery. The following apply to this section:

29 (1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff
30 may proceed as follows:

31 (a) Before crediting the total amount of moneys received against the judgment or debt, the
32 plaintiff may recover and keep from the total amount received under the garnishment, attachment
33 or payment any moneys allowed to be recovered under this section.

34 (b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall
35 credit the remainder of the moneys received against the judgment or debt as provided by law.

36 (2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid
37 on and to be credited against the original judgment or debt sought to be enforced. No additional
38 judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

39 (3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those
40 described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific
41 judgment or debt that the specific garnishment or attachment was issued to enforce or upon which
42 the payment was received. Moneys recoverable under subsection (1)(a) of this section remain re-
43 coverable and, except as provided under subsection (8) of this section, may be recovered from mon-
44 eys received by the plaintiff under subsequent garnishments, attachments or payments on the same
45 specific judgment or debt.

1 (4) This section allows the recovery only of the following:

2 (a) Statutorily established moneys that meet the requirements under subsection (3) of this sec-
3 tion, as follows:

4 (A) Garnishee's search fees under ORS 18.790.

5 (B) Fees for delivery of writs of garnishment under ORS 18.652.

6 (C) Circuit court fees as provided under ORS 21.325.

7 (D) County court fees as provided under ORS 5.125.

8 (E) County clerk recording fees as provided in ORS 205.320.

9 (F) Actual fees or disbursements made under ORS 21.410.

10 (G) Costs of execution as provided in ORS 105.112.

11 (H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed \$7 for each
12 garnishment.

13 (I) Costs of an execution sale as described in ORS 18.950 (2).

14 **(J) Fees paid under section 29 of this 2007 Act for motions and responses to motions filed**
15 **after entry of a judgment.**

16 (b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for
17 judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and
18 ending upon recovery of the amount under this section.

19 (5) The plaintiff shall be responsible for doing all of the following:

20 (a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section
21 and making the accounting available for any proceeding relating to that judgment or debt.

22 (b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under sub-
23 section (1)(a) of this section.

24 (6) Moneys recovered under subsection (1)(a) of this section remain subject to all other pro-
25 visions of law relating to payments, or garnished or attached moneys including, but not limited to,
26 those relating to exemption, claim of exemption, overpayment and holding periods.

27 (7) Nothing in this section limits the right of a plaintiff to recover moneys described in this
28 section or other moneys in any manner otherwise allowed by law.

29 (8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recov-
30 erable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced
31 to a judgment or to a debt enforceable under ORS 18.854.

32 **SECTION 32.** ORS 1.202 is amended to read:

33 1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments
34 and divisions of the judicial branch of state government, shall add a fee of not less than [~~\$25~~] **\$50**
35 and not more than [~~\$50~~] **\$100** to any judgment that includes a monetary obligation that the court
36 or judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing
37 and administering an account for the debtor and shall be added without further notice to the debtor
38 or further order of the court. The fee shall be added only if the court gives the defendant a period
39 of time in which to pay the obligation after the financial obligation is imposed. Fees under this
40 subsection shall be deposited in the General Fund.

41 (2) All circuit courts and appellate courts of this state, and all commissions, departments and
42 divisions of the judicial branch of state government, that use the Department of Revenue or private
43 collection agencies shall add a fee to any judgment referred for collection that includes a monetary
44 obligation that the state court or the commission, department or division is charged with collecting.
45 The fee shall be added to cover the costs of collection charged by the Department of Revenue or

1 private collection agency and shall be added to the monetary obligation without further notice to
2 the debtor or further order of the court. The fee may not exceed the actual costs of collection
3 charged by the Department of Revenue or private collection agency. Fees under this subsection
4 shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and
5 may be used only for the purposes specified in ORS 1.204.

6 (3) A court may not waive or suspend the fees required to be added to judgments under the
7 provisions of this section.

8 **SECTION 33. The amendments to ORS 1.202 by section 32 of this 2007 Act apply only to**
9 **judgments entered on or after September 1, 2007.**

10
11 **MISCELLANEOUS**
12

13 **SECTION 34. The unit captions used in this 2007 Act are provided only for the conven-**
14 **ience of the reader and do not become part of the statutory law of this state or express any**
15 **legislative intent in the enactment of this 2007 Act.**

16 **SECTION 35. This 2007 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
18 **on its passage.**
19 _____