

HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2331

By JOINT COMMITTEE ON WAYS AND MEANS

June 22

1 On page 1 of the printed A-engrossed bill, line 2, after “ORS” delete the rest of the line and line
2 3 and insert “1.202, 18.999, 20.190, 21.010, 21.110, 21.111, 21.114, 21.325, 21.350, 21.480, 36.170, 36.520,
3 36.615, 46.570 and 105.130; appropriating money; and declaring an emergency.”.

4 Delete lines 5 through 23 and delete pages 2 through 11 and insert:
5

“RESPONDENT FEE INCREASES

6
7

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

10 “21.010. (1) Except as provided in subsection (2) of this section, the appellant in an appeal or
11 the petitioner in a judicial review in the Supreme Court or the Court of Appeals shall pay a filing
12 fee of \$154 in the manner prescribed by ORS 19.265. The respondent in such case and any other
13 person appearing in the appeal, upon entering first appearance or filing first brief in the court, shall
14 pay to the State Court Administrator the sum of [~~\$105~~] **\$154**. The party entitled to costs and dis-
15 bursements on such appeal shall recover from the opponent the amount so paid.

16 “(2) Filing and appearance fees shall not be assessed in appeals from habeas corpus proceedings
17 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
18 419A.200 and the involuntary commitment of allegedly mentally ill persons under ORS 426.135 or
19 allegedly mentally retarded persons under ORS 427.295, or on judicial review of orders of the Psy-
20 chiatric Security Review Board under ORS 161.385 (9) or orders of the State Board of Parole and
21 Post-Prison Supervision.

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

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

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

30 “21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court
31 of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect
32 from the plaintiff, appellant or moving party the sum of \$107 as a flat and uniform filing fee. In ad-
33 dition, at the time of filing any appearance in any such action, suit or proceeding by any defendant
34 or respondent appearing separately, or upon the part of defendants or respondents appearing jointly,
35 the clerk shall collect from the party or parties the sum of [~~\$83~~] **\$107** as a flat and uniform filing

1 fee.

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

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

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

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

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

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

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

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

23 “(4) For purposes of subsection (2) of this section, the amount claimed, value of property, dam-
24 ages or any amount in controversy does not include any amount claimed as costs and disbursements
25 or attorney fees as defined by ORCP 68 A.

26 “(5) A paper or pleading shall be filed by the clerk only if the fee required under this section
27 is paid by the person filing the paper or pleading, or if a request for a fee waiver or deferral is
28 granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee
29 shall cover all services to be performed by the court or clerk in any such action, suit or proceeding,
30 except where additional fees are specially authorized by law.

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

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

35 “(a) Protective proceedings under ORS chapter 125;

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

37 “(c) Filiation proceedings under ORS 109.124 to 109.230;

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

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

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

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

44 “(8) The fees described in this section shall not be charged to a district attorney or to the Di-
45 vision of Child Support of the Department of Justice for the filing of any case, motion, document,

1 stipulated order, process or other document relating to the provision of support enforcement ser-
2 vices as described in ORS 25.080.

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

5 “21.111. (1) In the proceedings specified in subsection (2) of this section, the clerk of the circuit
6 court shall collect the sum of \$99 as a flat and uniform filing fee from the petitioner at the time the
7 petition is filed, and shall collect the sum of [~~\$51~~] **\$80** as a flat and uniform filing fee from the re-
8 spondent upon the respondent making an appearance.

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

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

12 “(b) Filiation proceedings under ORS 109.124 to 109.230.

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

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

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

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

27 “(6) The fees described in this section shall not be charged to a district attorney or to the Di-
28 vision of Child Support of the Department of Justice for the filing of any case, motion, document,
29 stipulated order, process or other document relating to the provision of support enforcement ser-
30 vices as described in ORS 25.080.

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

33 “21.114. (1) In a court having jurisdiction, the clerk of the court shall charge and collect:

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

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

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

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

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

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

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

6 “(a) The party making application furnishes proof that:

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

10 “(B) The party making the application was not given proper notice of the appointment of an
11 arbitrator or of the arbitral proceedings or was otherwise unable to present the party’s case;

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

17 “(D) The composition of the arbitral tribunal or the arbitral procedure was not in accordance
18 with the agreement of the parties, unless such agreement was in conflict with a provision of ORS
19 36.450 to 36.558 from which the parties cannot derogate, or, failing such agreement, was not in ac-
20 cordance with ORS 36.450 to 36.558; or

21 “(b) The circuit court finds that:

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

24 “(B) The award is in conflict with the public policy of the State of Oregon or of the United
25 States.

26 “(3) An application for setting aside may not be made after three months have elapsed from the
27 date on which the party making that application had received the award or, if a request had been
28 made under ORS 36.518, from the date on which that request had been disposed of by the arbitral
29 tribunal.

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

34 “(5) The clerk of the circuit court shall collect from the party making application for setting
35 aside under subsection (1) of this section a filing fee of \$39 and from a party filing an appearance
36 in opposition to the application a filing fee of [~~\$23~~] **\$39**. However, if the application relates to an
37 arbitral award made following an application or request to a circuit court under any section of ORS
38 36.450 to 36.558 in respect to which the parties have paid filing fees under ORS 21.110, filing fees
39 shall not be collected under this subsection. An application for setting aside or an appearance in
40 opposition thereto shall not be deemed filed unless the fee required by this subsection is paid by the
41 filing party.

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

44 “36.615. (1)(a) Except as otherwise provided in ORS 36.730, an application for judicial relief un-
45 der ORS 36.600 to 36.740 must be made by petition to the court. Except as otherwise provided in this

1 subsection, a person filing the first petition relating to an agreement to arbitrate or relating to an
2 arbitration proceeding must pay the filing fee provided by ORS 21.110 (1) for plaintiffs, and persons
3 responding to the petition must pay the filing fee provided by ORS 21.110 (1) for defendants. If sub-
4 sequent petitions are filed relating to the same agreement to arbitrate or arbitration proceeding, no
5 additional filing fees shall be required of the parties.

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

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

13 “(2) Unless a civil action involving the agreement to arbitrate is pending, notice of a first peti-
14 tion to the court under ORS 36.600 to 36.740, must be served in the manner provided by ORCP 7
15 D. Otherwise, notice of the petition must be given in the manner provided by ORCP 9.

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

18 “46.570. (1) In the small claims department of circuit court there shall be charged and collected
19 in civil cases by the clerk of the court the following fees for the following purposes and services:

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

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

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

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

26 “(2) Except as otherwise provided in subsection (1) of this section, fees provided for in this
27 section shall be collected in advance. A paper or pleading shall be filed by the clerk only if the re-
28 quired fee is paid or if a request for a fee waiver or deferral is granted by the court. Fees provided
29 for in this section may not be refunded.

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

32 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137 and 105.140 to 105.161,
33 an action pursuant to ORS 105.110 shall be conducted in all respects as other actions in courts of
34 this state.

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

37 “(a) Collect a filing fee of \$13;

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

39 “(c) With the assistance of the plaintiff or an agent of the plaintiff, complete the applicable
40 summons and provide to the plaintiff or an agent of the plaintiff sufficient copies of the summons
41 and complaint for service.

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

45 “(4) An action pursuant to ORS 105.110 shall be brought in the name of a person entitled to

1 possession as plaintiff. The plaintiff may appear in person or through an attorney. In an action to
2 which ORS chapter 90 applies, the plaintiff may also appear through a nonattorney who is an agent
3 or employee of the plaintiff or an agent or employee of an agent of the plaintiff.

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

6 “(a) The Attorney General consents to the representation of the agency by an officer or em-
7 ployee in the particular action or in the class of actions that includes the particular action; and

8 “(b) The agency, by rule, authorizes an officer or employee to appear on its behalf in the par-
9 ticular type of action being conducted.

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

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

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

20 21 “FEES FOR WRITS OF GARNISHMENT

22
23 “**SECTION 10.** ORS 21.325, as amended by section 35, chapter 702, Oregon Laws 2005, is
24 amended to read:

25 “21.325. In the circuit court there shall be charged and collected in advance by the clerk of the
26 court the following fees for the following purposes and services:

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

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

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

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

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

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

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

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

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

40 “18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff
41 has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes proce-
42 dures for that recovery. The following apply to this section:

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

45 “(a) Before crediting the total amount of moneys received against the judgment or debt, the

1 plaintiff may recover and keep from the total amount received under the garnishment, attachment
2 or payment any moneys allowed to be recovered under this section.

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

5 “(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys
6 paid on and to be credited against the original judgment or debt sought to be enforced. No addi-
7 tional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this
8 section.

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

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

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

19 “(A) Garnishee’s search fees under ORS 18.790.

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

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

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

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

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

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

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

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

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

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

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

35 “(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this sec-
36 tion and making the accounting available for any proceeding relating to that judgment or debt.

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

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

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

44 “(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recov-
45 erable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced

1 to a judgment or to a debt enforceable under ORS 18.854.

2 **“SECTION 12. The amendments to ORS 18.999 and 21.325 by sections 10 and 11 of this 2007**
3 **Act apply only to writs of execution and writs of garnishment issued on or after September**
4 **1, 2007.**

5
6 **“LAW LIBRARY FEES**

7
8 **“SECTION 13.** ORS 21.350 is amended to read:

9 **“21.350. (1) In counties containing more than 400,000 inhabitants, according to the latest federal**
10 **decennial census, or when directed as provided in ORS 9.840, the clerk of the court shall collect in**
11 **each civil suit, action or proceeding filed in the circuit or county court a law library fee determined**
12 **by the county court or board of county commissioners in an amount not greater than [33] 28 percent**
13 **of the filing fee provided by law, except that the amount shall be rounded up to the next full dollar.**

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

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

21 **“(4) For the purpose of imposing the law library fee provided for in this section in cases that**
22 **are subject to the filing fees established by ORS 105.130, the percentage figure provided for under**
23 **subsection (1) of this section shall be applied to the sum of the fee established by ORS 105.130 (2)**
24 **and the surcharge established under ORS 105.130 (6). If the defendant demands a trial in the action,**
25 **the percentage figure provided for under subsection (1) of this section shall be applied to the addi-**
26 **tional filing fee required of the plaintiff under ORS 105.130 (3), and to the sum of the filing fee re-**
27 **quired of the defendant under ORS 105.130 (3) and the surcharge established under ORS 105.130 (6).**

28 **“SECTION 14. The amendments to ORS 21.350 by section 13 of this 2007 Act apply only**
29 **to court filings made on or after September 1, 2007.**

30
31 **“FILING FEE SURCHARGES**

32
33 **“SECTION 15. (1) In addition to the fees provided for in ORS 21.010 (1), for the period**
34 **commencing September 1, 2007, and ending June 30, 2009, at the time of filing a response in**
35 **the Court of Appeals or the Supreme Court, the State Court Administrator shall collect a**
36 **surcharge of \$8.**

37 **“(2)(a) In addition to the fees provided for in ORS 21.110 (1), for the period commencing**
38 **September 1, 2007, and ending June 30, 2009, at the time of filing in the circuit court of any**
39 **civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect**
40 **from the plaintiff, appellant or moving party a surcharge of \$5. In addition, at the time of**
41 **filing any appearance in any such action, suit or proceeding upon the part of any defendant**
42 **or respondent appearing separately, or upon the part of defendants or respondents appearing**
43 **jointly, the clerk shall collect from the party or parties a surcharge of \$4.**

44 **“(b) In addition to the fees provided for in ORS 21.110 (2), for the period commencing**
45 **September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a**

1 surcharge of \$3 from the plaintiff, appellant or moving party, and shall collect a surcharge
2 of \$3 from any defendant or respondent appearing separately, or upon the part of defendants
3 or respondents appearing jointly, in the actions described in ORS 21.110 (2).

4 “(3)(a) In addition to the fees provided for in ORS 21.111 (1), for the period commencing
5 September 1, 2007, and ending June 30, 2009, in the proceedings specified in ORS 21.111 (2)
6 the clerk of the circuit court shall collect a surcharge of \$5 from the petitioner at the time
7 the petition is filed, and shall collect a surcharge of \$3 from the respondent upon the re-
8 spondent making an appearance.

9 “(b) In addition to the fees provided for in ORS 21.111 (3), for the period commencing
10 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect from
11 the moving party a surcharge of \$3 at the time of the filing of a motion for the modification
12 of a decree of marital annulment, dissolution or separation, if the motion is filed more than
13 one year after the entry of the decree in the register of the court.

14 “(4) In addition to the fees provided for ORS 21.114 (1), for the period commencing Sep-
15 tember 1, 2007, and ending June 30, 2009, the clerk of the court shall collect:

16 “(a) In an adoption proceeding, a surcharge of \$2 from the party filing the petition for
17 adoption and a surcharge of \$1 from an objecting party appearing separately or objecting
18 parties appearing jointly.

19 “(b) In a change of name proceeding, a surcharge of \$2 from the party filing the appli-
20 cation for change of name and a surcharge of \$1 from an objecting party appearing sepa-
21 rately or objecting parties appearing jointly.

22 “(5) In addition to the fee provided for in ORS 21.114 (3), for the period commencing
23 September 1, 2007, and ending June 30, 2009, in any adoption or change of name proceeding
24 in a court having jurisdiction, the clerk of the court shall collect from the party having the
25 affirmative of the issue, at the time the proceeding comes on for trial or hearing upon the
26 issues of fact or law involved therein, a surcharge of \$2.

27 “(6)(a) In addition to the trial fee provided for in ORS 21.270 (2), for the period com-
28 mencing September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall
29 collect from the plaintiff, appellant or moving party, for a trial on the merits without a jury,
30 a surcharge on the trial fee of \$4 for each full or partial day of the trial.

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

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

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

1 “
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11 “

Where the amount of the estate is:

1. Not more than \$10,000--a surcharge of \$1.
2. More than \$10,000 and not more than \$25,000--a surcharge of \$4.
3. More than \$25,000 and not more than \$50,000--a surcharge of \$8.
4. More than \$50,000 and not more than \$100,000--a surcharge of \$12.
5. More than \$100,000 and not more than \$500,000--a surcharge of \$15.
6. More than \$500,000 and not more than \$1,000,000--a surcharge of \$19.
7. More than \$1,000,000--a surcharge of \$23.

“(b) In addition to the fee provided for in ORS 21.310 (3), for the period commencing September 1, 2007, and ending June 30, 2009, the clerk shall collect a surcharge of \$1 for the filing of the initial papers in any guardianship proceeding.

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

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

“(9) In addition to the fees provided for in ORS 21.325 (3), for the period commencing September 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge of \$2 for the filing of a copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or the filing of a copy of child custody determination of another state filed as provided in ORS 109.787.

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

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

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

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

“(14) In addition to the fee provided for in ORS 36.615 (1)(b), for the period commencing September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a surcharge of \$2 upon the filing of a petition to seek confirmation, vacation, modification or

1 correction of an award under ORS 36.700, 36.705 or 36.710, and a surcharge of \$1 from a
2 person filing an appearance in opposition to the petition.

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

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

8 “(b) A \$2 surcharge when a plaintiff files a claim and the amount or value claimed ex-
9 ceeds \$1,500;

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

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

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

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

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

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

27 “(19) In addition to the fee provided for in ORS 114.515 (6), for the period commencing
28 September 1, 2007, and ending June 30, 2009, the clerk of the probate court shall collect a
29 surcharge of \$1 upon the filing of an affidavit under ORS 114.515.

30 “(20) In addition to the fee provided for in ORS 130.200 (8)(a), for the period commencing
31 September 1, 2007, and ending June 30, 2009, the clerk of the circuit court shall collect a
32 surcharge of \$3 for the filing of an agreement or memorandum of agreement under ORS
33 130.200 (6) and a surcharge of \$2 for the filing of objections under ORS 130.200 (7).

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

37 “(22) In addition to the fee provided for in ORS 166.274, for the period commencing Sep-
38 tember 1, 2007, and ending June 30, 2009, the clerk of the court shall collect a surcharge of
39 \$5 for the filing of a petition for relief under ORS 166.274.

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

43
44 “PREVAILING PARTY FEES
45

1 “**SECTION 16.** ORS 20.190 is amended to read:

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

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

7 “(b) In a circuit court:

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

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

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

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

16 “(a) In a circuit court:

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

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

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

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

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

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

26 “(a) The conduct of the parties in the transactions or occurrences that gave rise to the liti-
27 gation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.

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

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

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

33 “(e) The objective reasonableness of the parties and the diligence of the parties and their at-
34 torneys during the proceedings.

35 “(f) The objective reasonableness of the parties and the diligence of the parties in pursuing
36 settlement of the dispute.

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

38 “(h) Such other factors as the court may consider appropriate under the circumstances of the
39 case.

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

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

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

7 “(a) A class action proceeding under ORCP 32.

8 “(b) A condemnation proceeding.

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

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

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

14
15 **“INTERIM COMMITTEE ON COURT FACILITIES**

16
17 “**SECTION 18. (1) There is created the Interim Committee on Court Facilities, consisting**
18 **of members appointed by the President of the Senate and the Speaker of the House of Rep-**
19 **resentatives. The Chief Justice of the Supreme Court, the Association of Oregon Counties**
20 **and the Oregon State Bar shall designate liaisons to the committee.**

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

25 “(3) A majority of the members of the interim committee constitutes a quorum for the
26 transaction of business.

27 “(4) Official action by the interim committee requires the approval of a majority of the
28 members of the interim committee.

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

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

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

34 “(8) The interim committee may adopt rules necessary for the operation of the interim
35 committee.

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

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

43 “(11) All agencies of state government, as defined in ORS 174.111, are directed to assist
44 the interim committee in the performance of its duties and, to the extent permitted by laws
45 relating to confidentiality, to furnish such information and advice as the members of the

1 interim committee consider necessary to perform their duties. The Oregon Department of
2 Administrative Services shall provide technical support to the committee.

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

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

9
10 “INTERIM COMMITTEE ON COURT TECHNOLOGY

11
12 “SECTION 21. (1) There is created the Interim Committee on Court Technology, con-
13 sisting of members appointed by the President of the Senate and the Speaker of the House
14 of Representatives. The Chief Justice of the Supreme Court and the Oregon State Bar shall
15 designate liaisons to the committee.

16 “(2) The interim committee shall evaluate the technology transition plan of the Judicial
17 Department and shall make recommendations at the next regular or special session of the
18 Legislative Assembly on the department’s strategic plan, deliverables under the plan, costs
19 of the plan, funding of the plan and oversight of the department’s technology initiatives.

20 “(3) A majority of the members of the interim committee constitutes a quorum for the
21 transaction of business.

22 “(4) Official action by the interim committee requires the approval of a majority of the
23 members of the interim committee.

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

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

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

29 “(8) The interim committee may adopt rules necessary for the operation of the interim
30 committee.

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

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

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

45 “SECTION 22. Section 21 of this 2007 Act is repealed on the date of the convening of the

1 next regular biennial legislative session.

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

6
7 “LEGAL AID FEES

8
9 “**SECTION 24.** ORS 21.480 is amended to read:

10 “21.480. (1) In all counties wherein legal representation is provided for the poor without fee by
11 a nonprofit legal aid program operating under the Legal Services Program established pursuant to
12 ORS 9.572, the clerk of the circuit court shall collect the fees provided for in subsection (2) of this
13 section to assist in defraying the operating costs of the legal aid program and to fund mediation
14 programs offered through the State Department of Agriculture. The fees provided for in subsection
15 (2) of this section are in addition to all other fees collected by the clerk of the court and shall be
16 collected by the clerk in the same manner that other fees are collected by the clerk.

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

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

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

27 “(c) [~~\$33~~] **\$35**, if the action, suit or proceeding is subject to the filing fees established by ORS
28 21.111.

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

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

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

38 “(4) All fees collected by the clerk under this section shall be deposited with the State Court
39 Administrator. All fees collected under this section shall be distributed in the manner provided by
40 ORS 9.574.

41 “(5) Ten percent of the funds deposited with the State Court Administrator under this section
42 shall be transferred by the State Court Administrator on a monthly basis to the State Department
43 of Agriculture, until such time as the amount specified under subsection (6) of this section has been
44 transferred to the State Department of Agriculture for the biennium. Moneys transferred to the
45 State Department of Agriculture under this section are continuously appropriated to the department

1 and may be used by the department only for the purpose of funding mediation programs established
2 by the department. Moneys appropriated to the department under this subsection may not be used
3 by the department to fund the costs of conducting individual farm credit mediations. The depart-
4 ment shall consult with the director of the Mark O. Hatfield School of Government in establishing
5 and operating mediation programs funded under this subsection.

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

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

10
11 **“DISPUTE RESOLUTION SURCHARGE**

12
13 **“SECTION 26. ORS 36.170 is amended to read:**

14 **“36.170. (1) The clerks of the circuit courts shall collect a dispute resolution surcharge at the**
15 **time a civil action, suit or proceeding is filed, including appeals. The surcharge shall be collected**
16 **from a plaintiff or petitioner at the time the proceeding is filed. The surcharge shall be collected**
17 **from a defendant or respondent upon making appearance. The amount of the surcharge shall be:**

18 **“(a) [\$9] \$6, if the action, suit or proceeding is subject to the filing fees established by ORS**
19 **21.110 (1), 21.310 or any other filing fee not specifically provided for in this section.**

20 **“(b) [\$7] \$5, if the action, suit or proceeding is subject to the filing fees established by ORS**
21 **21.110 (2) or 105.130, or if the action is filed in the small claims department of circuit court and the**
22 **amount or value claimed exceeds \$1,500.**

23 **“(c) [\$5] \$3, if the action, suit or proceeding is subject to the filing fees established by ORS**
24 **21.111.**

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

27 **“(2) All surcharges collected under this section shall be deposited by the State Court Adminis-**
28 **trator into the State Treasury to the credit of the General Fund.**

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

31
32 **“FEES ON MOTIONS**

33
34 **“SECTION 28. Section 29 of this 2007 Act is added to and made a part of ORS chapter 21.**

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

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

44 **“(3) The fees provided for in this section may not be collected for motions for judgment**
45 **by voluntary dismissal under ORCP 54 A(1), for motions for judgment by written stipulation**

1 under ORCP 67 F or for motions for entry of default judgment under ORCP 69 B(1).

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

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

7 “**SECTION 31.** ORS 18.999 is amended to read:

8 “18.999. This section establishes the right of a plaintiff to recover certain moneys the plaintiff
9 has expended to recover a debt under ORS 18.854 or to enforce a judgment and establishes proce-
10 dures for that recovery. The following apply to this section:

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

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

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

18 “(2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys
19 paid on and to be credited against the original judgment or debt sought to be enforced. No addi-
20 tional judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this
21 section.

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

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

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

32 “(A) Garnishee’s search fees under ORS 18.790.

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

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

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

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

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

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

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

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

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

44 “(b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided
45 for judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount

1 and ending upon recovery of the amount under this section.

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

3 “(a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this sec-
4 tion and making the accounting available for any proceeding relating to that judgment or debt.

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

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

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

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

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

16 “1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments
17 and divisions of the judicial branch of state government, shall add a fee of not less than [~~\$25~~] **\$50**
18 and not more than [~~\$50~~] **\$100** to any judgment that includes a monetary obligation that the court
19 or judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing
20 and administering an account for the debtor and shall be added without further notice to the debtor
21 or further order of the court. The fee shall be added only if the court gives the defendant a period
22 of time in which to pay the obligation after the financial obligation is imposed. Fees under this
23 subsection shall be deposited in the General Fund.

24 “(2) All circuit courts and appellate courts of this state, and all commissions, departments and
25 divisions of the judicial branch of state government, that use the Department of Revenue or private
26 collection agencies shall add a fee to any judgment referred for collection that includes a monetary
27 obligation that the state court or the commission, department or division is charged with collecting.
28 The fee shall be added to cover the costs of collection charged by the Department of Revenue or
29 private collection agency and shall be added to the monetary obligation without further notice to
30 the debtor or further order of the court. The fee may not exceed the actual costs of collection
31 charged by the Department of Revenue or private collection agency. Fees under this subsection
32 shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and
33 may be used only for the purposes specified in ORS 1.204.

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

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

38
39 **“MISCELLANEOUS**

40
41 “**SECTION 34.** The unit captions used in this 2007 Act are provided only for the conven-
42 ience of the reader and do not become part of the statutory law of this state or express any
43 legislative intent in the enactment of this 2007 Act.

44 “**SECTION 35.** This 2007 Act being necessary for the immediate preservation of the public
45 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect

1 on its passage.”

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