

Enrolled Senate Bill 220

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CHAPTER

AN ACT

Relating to collection of moneys owed the Department of Transportation; creating new provisions; and amending ORS 18.854.

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

SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS 184.610 to 184.666.

SECTION 2. (1) For purposes of this section, a liquidated and delinquent debt is a debt that meets one of the following conditions:

- (a) Judgment has been entered on the debt; or
- (b) Liability for and the amount of the debt have been established through an administrative proceeding.

(2) If a person fails to pay in full any liquidated and delinquent debt due the Department of Transportation, the department may issue a warrant under the department's official seal directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the person found within that county, for payment of the amount due, with the added penalties or charges, interest and cost of executing the warrant, and to return the warrant to the department and pay to the department the money collected from the sale by the time specified in the warrant, not less than 60 days from the date of the warrant.

(3) The sheriff shall, within five days after the receipt of the warrant, record with the clerk of the county a copy of the warrant. The clerk shall enter in the County Clerk Lien Record the name of the person mentioned in the warrant, the amount of the debt for which the warrant is issued and the date when the copy is recorded. The amount of the warrant shall become a lien upon the title to and interest in property of the person against whom the warrant is issued in the same manner as a judgment that creates a judgment lien under ORS chapter 18.

(4) The sheriff shall proceed upon the warrant in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for services in executing the warrant, to be added to and collected as a part of the warrant liability.

(5) In the discretion of the Department of Transportation, a warrant of like terms, force and effect to levy upon funds of the person in possession of the Department of Revenue may

be issued and directed to any agent authorized by the Department of Transportation to collect liquidated and delinquent debts for the department, and in the execution thereof the agent shall have all of the powers conferred by law upon sheriffs but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(6) Nothing in this section affects any provision of ORS 319.182, 319.742 or 825.504.

SECTION 3. ORS 18.854 is amended to read:

18.854. (1) Any state agency authorized to issue warrants to collect taxes and debts owed to the State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, 657.396, 657.642, 657.646, 705.175 and 825.504 **and section 2 of this 2007 Act**, or any county tax collector authorized to issue warrants to collect taxes and debts owed to the county pursuant to ORS 311.625, may garnish property of a debtor in the possession, control or custody of a person other than the debtor by delivering to the person all of the following:

- (a) A notice of garnishment;
- (b) A warrant, or a true copy of a warrant;
- (c) The items specified in ORS 18.650 (1)(b) to (d); and
- (d) Any garnishee's search fee payable as provided in ORS 18.790.

(2) A notice of garnishment may be issued by any person designated by the state agency or by the county tax collector. A warrant need not be recorded in the County Clerk Lien Record as a condition of issuing a notice of garnishment under the provisions of this section. The provisions of ORS 18.800 do not apply to a notice of garnishment.

(3) If any of the items described in subsection (1) of this section are not delivered to the garnishee, a notice of garnishment shall not be effective to garnish any property of the debtor, and the garnishee shall not be required to respond to the garnishment and may proceed to deal with any property of the debtor as though the notice of garnishment had not been issued.

(4) Notwithstanding ORS 18.652, a notice of garnishment and the other items required by subsection (1) of this section may be delivered in person by any employee of the state agency or of the county tax collector authorized by the agency or the county to deliver the notice of garnishment, or by certified mail, return receipt requested. The employee need not be covered by the errors and omissions insurance required in ORS 18.652.

(5) Notwithstanding any provision of ORS 18.600 to 18.850, a debt calculation form need not be prepared or delivered for any notice of garnishment.

(6) Notwithstanding ORS 18.792, the duty of a garnishee to deliver any property of the debtor that may be contained in a safe deposit box that is in the garnishee's possession, control or custody at the time of delivery of the notice of garnishment to the garnishee is conditioned upon the state agency or the county tax collector first paying to the garnishee, in addition to the search fee provided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector at least five days before the date the state agency or the county tax collector takes possession of the property in the safe deposit box. If the state agency or the county tax collector fails to pay such costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment shall not be effective to garnish any property of the debtor that may be contained in the safe deposit box and the garnishee may proceed to deal with the safe deposit box and its contents as though the notice of garnishment had not been issued. Nothing in this subsection limits the rights of a state agency or county tax collector to reach the contents of any safe deposit box in any manner otherwise provided by law.

(7) Except as provided in this section and ORS 18.855 and 18.857, all provisions of ORS 18.600 to 18.850 apply to notices of garnishment. The state agency or county tax collector shall modify the forms provided in ORS 18.600 to 18.850 as necessary to allow use of those forms for notices of garnishment. The form of the notice of garnishment must clearly indicate that the document is a notice of garnishment and must reflect the date of all warrants on which the notice of garnishment is based.

(8) The Attorney General may adopt model forms for notices of garnishment and other documents issued by state agencies and county tax collectors under this section and ORS 18.855 and 18.857. There is a presumption, as described in ORS 40.120, that any state agency or county tax collector that uses a model form adopted by the Attorney General under this subsection has complied with the requirements of ORS 18.600 to 18.850, and with the provisions of this section and ORS 18.855 and 18.857, with respect to the form of notices of garnishment.

SECTION 4. The provisions of section 2 of this 2007 Act may be used by the Department of Transportation to collect any moneys due on a debt that is liquidated and delinquent on or after the effective date of this 2007 Act.

Passed by Senate February 26, 2007

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Secretary of Senate

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President of Senate

Passed by House March 28, 2007

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Speaker of House

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State