

HOUSE AMENDMENTS TO SENATE BILL 279

By COMMITTEE ON JUDICIARY

June 11

1 In line 2 of the printed bill, delete “repealing ORS 5.110” and insert “creating new provisions;
2 amending ORS 1.202 and 18.999; and declaring an emergency”.

3 Delete line 4 and insert:

4 **“SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 21.**

5 **“SECTION 2. (1) In any action, suit or proceeding subject to a fee under ORS 21.110, or**
6 **in any civil appeal or petition subject to a fee under ORS 21.010, the Chief Justice of the**
7 **Supreme Court may require that a \$50 fee be paid at the time of filing a motion identified**
8 **by the Chief Justice as being subject to a fee under this section. If the Chief Justice has**
9 **identified a motion as being subject to a fee under this section, the responding party must**
10 **file a fee of \$35 upon the filing of a response to the motion. The Chief Justice by order shall**
11 **identify motions that are subject to fees under this section. All amounts collected as fees**
12 **under this section shall be deposited into the Judicial Department Operating Account estab-**
13 **lished under ORS 1.009.**

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

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

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

22 **“SECTION 3. Section 2 of this 2007 Act applies only to motions and responses to motions**
23 **filed on or after September 1, 2007.**

24 **“SECTION 4. ORS 1.202 is amended to read:**

25 **“1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments**
26 **and divisions of the judicial branch of state government, shall add a fee of not less than [25] \$50**
27 **and not more than [50] \$100 to any judgment that includes a monetary obligation that the court**
28 **or judicial branch is charged with collecting. The fee shall be added to cover the cost of establishing**
29 **and administering an account for the debtor and shall be added without further notice to the debtor**
30 **or further order of the court. The fee shall be added only if the court gives the defendant a period**
31 **of time in which to pay the obligation after the financial obligation is imposed. Fifty percent of**
32 **the fees collected under this subsection shall be deposited in the General Fund. Fifty percent of**
33 **the fees collected under this subsection shall be deposited in the Judicial Department Oper-**
34 **ating Account established under ORS 1.009.**

35 **“(2) All circuit courts and appellate courts of this state, and all commissions, departments and**

1 divisions of the judicial branch of state government, that use the Department of Revenue or private
2 collection agencies shall add a fee to any judgment referred for collection that includes a monetary
3 obligation that the state court or the commission, department or division is charged with collecting.
4 The fee shall be added to cover the costs of collection charged by the Department of Revenue or
5 private collection agency and shall be added to the monetary obligation without further notice to
6 the debtor or further order of the court. The fee may not exceed the actual costs of collection
7 charged by the Department of Revenue or private collection agency. Fees under this subsection
8 shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and
9 may be used only for the purposes specified in ORS 1.204.

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

12 **“SECTION 5. The amendments to ORS 1.202 by section 4 of this 2007 Act apply only to
13 judgments entered on or after September 1, 2007.**

14 **“SECTION 6.** ORS 18.999 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **“(J) Fees paid under section 2 of this 2007 Act for motions and responses to motions filed
5 after entry of a judgment.**

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

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

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

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

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

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

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

22 **“SECTION 7. This 2007 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
24 on its passage.”.**

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