

Enrolled
Senate Bill 322

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CHAPTER

AN ACT

Relating to judgments; creating new provisions; amending ORS 18.165, 18.235, 18.860, 18.868, 18.878, 18.884, 18.886, 18.888, 18.892, 18.896, 18.936, 18.950, 86.770 and 88.070; and repealing ORS 88.075.

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

JUDGMENT LIEN PRIORITY

SECTION 1. ORS 18.165 is amended to read:

18.165. (1) If a judgment with lien effect under ORS 18.150, 18.152 or 18.158 is entered or recorded in a county before a conveyance, or a memorandum of a conveyance, of real property of the debtor is recorded in that county, the conveyance of the judgment debtor's interest is void as against the lien of the judgment unless:

(a) The grantee under the conveyance is a purchaser in good faith for a valuable consideration, **the conveyance is delivered and accepted before the judgment is entered or recorded in the county where the property is located** and the conveyance or memorandum of the conveyance is recorded within 20 days after delivery and acceptance of the conveyance, excluding Saturdays and legal holidays under ORS 187.010 and 187.020;

(b) The judgment creditor has actual notice, record notice or inquiry notice of a conveyance **of the debtor's interest** to a grantee when the judgment is entered or recorded in the county;

(c) The conveyance **by the debtor** is a fulfillment deed entitled to priority over the judgment under ORS 93.645; or

(d) The conveyance is a mortgage, trust deed or other security instrument given **by the debtor** to secure financing for the purchase **by the debtor** of the real property described in the conveyance.

(2) For the purpose of subsection (1)(a) of this section, a memorandum of conveyance must contain the date of the instrument being memorialized, the names of the parties, a legal description of the real property involved and a description of the nature of the interest created. The memorandum must be signed by the person from whom the interest is intended to pass, and be acknowledged or proved in the manner provided for the acknowledgment or proof of deeds.

(3) As used in this section:

(a) "Conveyance" means a deed, a land sale contract, an assignment of all or any portion of a seller's or purchaser's interest in a land sale contract or any other agreement affecting the title of real property within this state, including a trust deed, a mortgage, an assignment for security pur-

poses or an assignment solely of proceeds, given by a purchaser or seller under a land sale contract or given by a person with title to the real property.

(b) "Grantee" means:

(A) The person deemed to be the mortgagee under a trust deed pursuant to ORS 86.715; and

(B) Any other person to whom the interest that is the subject of a conveyance is intended to pass.

MULTIPLE JUDGMENTS

SECTION 2. ORS 18.860 is amended to read:

18.860. (1) A writ of execution may direct a sheriff to:

(a) Levy on and sell real property of the judgment debtor and deliver the proceeds to the court for application against **amounts owing on** a money award.

(b) Levy on and sell personal property of the judgment debtor in the possession of the judgment debtor, and deliver the proceeds to the court for application against **amounts owing on** a money award.

(c) Levy on and deliver possession of specific real or personal property pursuant to the terms of the judgment.

(d) Levy on and sell specific real or personal property pursuant to the terms of the judgment.

(e) Levy on currency that is in the possession of the judgment debtor and deliver the currency to the court for application against **amounts owing on** a money award.

(2) A single writ of execution may be issued for two or more of the purposes specified in this section.

(3) A single writ of execution may be issued for two or more judgments as long as the judgments are against the same judgment debtor or debtors and are entered in the same case.

SATISFACTION OF JUDGMENTS

SECTION 3. ORS 18.235 is amended to read:

18.235. (1) A judgment debtor, or a person with an interest in real property against which a judgment lien exists, may move the court for an order declaring that a money award has been satisfied or for a determination of the amount necessary to satisfy the money award, when the person **making the motion** cannot otherwise obtain a satisfaction document from a judgment creditor.

(2) Motions under this section shall be filed in the action in which the judgment was entered. All proceedings on the motion shall be conducted as part of the action in which the judgment was entered. An appearance fee may not be charged for filing a motion under this section.

(3) A motion under this section must include the following information, to the extent known to the person making the motion:

(a) The date of entry and principal amount of the money award.

(b) The rate of interest and the date the interest commenced to accrue.

(c) The date or dates and amounts of any payments on the money award.

(d) Any amount that the person believes remains to be paid on the money award, including any supporting mathematical calculations.

(e) Any other information necessary or helpful to the court in making its determination.

(4) A person making a motion under this section must serve the motion on the judgment creditor. If the person making the motion is not the judgment debtor, the person also must serve the motion and supporting affidavit on the judgment debtor. If an assignment of judgment document has been filed with the court under ORS 18.205, the motion must be served on the person named as the assignee of the judgment. Service on the judgment creditor and judgment debtor under this subsection may be made as provided in ORCP 9 if the motion is filed within one year after entry of the judgment. If the motion is filed more than one year after entry of the judgment, or service is to be

made on an assignee of the judgment, the motion may either be personally served as provided in ORCP 7, or be served by certified mail, return receipt requested with signed receipt. The court may waive service on any person under this subsection if the person making the motion files an affidavit with the court stating that the person cannot be found after diligent effort by the person making the motion. The [party] **person** making the motion shall file proof of service with the court.

(5) A person served with a motion under this section must file a response within 21 days after service is made, or within such time as may be allowed by the court. The response must specifically identify those assertions in the motion that the person contests. The response must contain any information or mathematical calculations necessary to support the contentions of the responding party.

(6) The court shall hear the motion not less than seven days after notice of hearing is given to the person [filing] **making** the motion and to the parties served with the motion. The court shall hear and determine the issues in a summary fashion without a jury. The court shall give the parties a reasonable opportunity to present evidence relevant to any factual issues.

(7) If the court determines that the person making the motion is entitled to relief, the court shall issue an order providing that the money award has been satisfied in full or, if the money award has not been satisfied in full, the specific amount that will satisfy the judgment on a specific date or within a period of time specified in the order.

(8) If the court finds that the judgment creditor willfully failed to provide a satisfaction document under ORS 18.225, the court may render a supplemental judgment awarding reasonable attorney fees to the person making the motion. The supplemental judgment may provide that the [demanding party] **person making the motion** may satisfy the judgment by paying such amounts the court determines to be necessary to satisfy the judgment less that sum of money the court awards as attorney fees.

(9) If the court finds that the money award has been satisfied, or if the amount specified by the court is paid to the court administrator within the time specified by the court, the court administrator shall note in the register and in the separate record maintained under ORS 18.075 that the money award has been satisfied in full. The court administrator shall deliver any money paid to the court administrator to the party or parties specified in the court's order.

(10) Upon request of the [judgment debtor or] person making the motion, the court administrator shall issue a certificate indicating that the money award has been satisfied. The certificate may be recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152. Recording of the certificate eliminates any judgment lien that was created by the recording of the judgment.

(11) At least five days before filing a motion under this section, the person must serve by personal delivery or first class mail a copy of the motion on the Administrator of the Division of Child Support of the Department of Justice, or on the branch office of the Department of Justice providing support services to the county in which the motion will be made, if:

(a) The motion relates to satisfaction of a support award; and

(b) Child support rights, as defined in ORS 25.010, for the judgment creditor have been assigned to the state.

(12) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

MONEY AWARDS

SECTION 4. Section 5 of this 2007 Act is added to and made a part of ORS chapter 18.

SECTION 5. After entry of a judgment, the amount owing on the money award portion of a judgment shall be decreased by all payments made by or on behalf of the judgment debtor against the money award and shall be increased by interest accruing on the money award. In addition, the judgment creditor is entitled to recover the expenses specified in ORS 18.999 that are incurred by the judgment creditor in collecting on the judgment, in the

manner provided by ORS 18.999. This section does not impose any duty on a court administrator to calculate the amount owing on the money award portion of a judgment.

SECTION 6. ORS 18.868 is amended to read:

18.868. (1) If a writ of execution directs a sheriff to sell real property or tangible personal property of a judgment debtor and deliver the proceeds to the court for application against **amounts owing on** a money award, the writ may be issued to the sheriff of any county in this state where property of the judgment debtor to be levied on is located.

(2) If the writ of execution directs the sheriff to sell or deliver possession of specific real or tangible personal property, the writ must be issued to the sheriff of the county where the property is located.

(3) If the writ of execution directs the sheriff to sell intangible personal property and deliver the proceeds to the court for application against **amounts owing on** a money award, the court administrator shall issue the writ to the sheriff for the county in which the court sits.

(4) More than one writ of execution may be issued at the same time to different sheriffs for the enforcement of a single judgment. If the writ or the instructions to the sheriff direct the sale of a single, contiguous parcel of real property that is located in more than one county, and the judgment creditor has recorded copies of the writ or abstracts of the writ under ORS 18.870 in each county that contains part of the property, the sheriff for any county in which part of the property is located may levy on and sell the entire property. If the sheriff levies on property under this subsection, the sheriff must record a copy of the notice of levy in the County Clerk Lien Record for any county not served by the sheriff.

SECTION 7. ORS 18.936 is amended to read:

18.936. (1) A judgment creditor may make oral bids for property to be sold at an execution sale. If the oral bid of the judgment creditor is the highest bid, the judgment creditor need not make any payment to the sheriff other than for:

(a) Any unpaid sheriff's fees for the execution sale;

(b) The amount of an exemption claimed by the debtor that the judgment creditor agrees to or that a court has determined applies to the property; and

(c) Any amount bid by the judgment creditor that exceeds the full amount [of] **owing on** the money award, calculated as of the date that the sale is to be conducted, plus the costs of the sale as described in ORS 18.950 (2) that have been paid by the judgment creditor.

(2) A judgment creditor may submit a written bid for property to be sold in an execution sale before the sale is conducted. A bid under this subsection may not be for more than the full amount [of] **owing on** the money award, calculated as of the date that the sale is to be conducted, plus the costs of the sale that are recoverable by the judgment creditor as described in ORS 18.950 (2). A bid under this subsection must be received by the sheriff not less than 48 hours before the sale is conducted. The sheriff may rely on the judgment creditor's calculation of the amount due under the money award and for the costs of sale, and is not required to make a separate calculation. If the written bid of the judgment creditor is the highest bid, the judgment creditor need not make any payment to the sheriff other than for:

(a) Any unpaid sheriff's fees for the execution sale; and

(b) The amount of an exemption claimed by the debtor that the judgment creditor agrees to or that a court has determined applies to the property.

(3) A judgment creditor may instruct the sheriff to accept any bid that matches the amount of the bid made by the judgment creditor under subsection (2) of this section.

(4) A written bid under subsection (2) of this section is irrevocable, but the judgment creditor who submits the written bid may make an oral bid at the time of the sale that is higher than the written bid.

(5) A judgment creditor must notify the sheriff of any amounts included in a bid made by the judgment creditor that are attributable to costs of sale under ORS 18.950 (2).

SECTION 8. ORS 18.892 is amended to read:

I/We claim that the following described property or money is exempt from execution:

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes most types of property that you can claim as exempt from execution):

I am a person other than the Debtor and I have the following interest in the property:

Name _____	Name _____
Signature _____	Signature _____
Address _____	Address _____
_____	_____
Telephone Number _____ (Required)	Telephone Number _____ (Required)

YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Execution form that you received with this notice.
- (2) Mail or deliver the Challenge to Execution form to the court administrator at the address shown on the writ of execution.
- (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the address shown on the writ of execution.

You should be prepared to explain your exemption in court. If you have any questions about the execution or the debt, you should see an attorney.

YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY [TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.] **FOR THE FOLLOWING PURPOSES:**

- (1) **To claim such exemptions from execution as are permitted by law.**
- (2) **To assert that the amount specified in the writ of execution as being subject to execution is greater than the total amount owed.**

YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE VALIDITY OF THE DEBT.

IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject to are listed in ORS 18.899.

NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

(1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:

- (a) 75 percent of your take-home wages; or
- (b) \$170 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).
- (4) Public assistance (welfare).
- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.

(8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$7,500).

(9) Spousal support, child support or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(10) A homestead (house, mobile home or houseboat) occupied by you, or occupied by your spouse, parent or child. The value of the homestead is exempt up to the following amounts:

(a) For a mobile home or houseboat located on land that is not owned by you, \$20,000. If you jointly own the mobile home or houseboat with another person who is also liable on the debt, \$27,000.

(b) For a mobile home or houseboat located on land that is owned by you, \$23,000. If you jointly own the mobile home or houseboat with another person who is also liable on the debt, \$30,000.

(c) For any other homestead, \$30,000. If you jointly own the homestead with another person who is also liable on the debt, \$39,600.

(11) Proceeds from the sale of a homestead described in item 10, up to the limits described in item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure another homestead.

(12) Household goods, furniture, radios, a television set and utensils with a combined value not to exceed \$3,000.

*(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.

*(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

*(15) Books, pictures and musical instruments with a combined value not to exceed \$600.

*(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed \$1,800.

(17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and their food for 60 days.

(18) Provisions and fuel for your family for 60 days.

(19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.

(20) Public or private pensions.

(21) Veterans' benefits and loans.

(22) Medical assistance benefits.

(23) Health insurance proceeds and disability proceeds of life insurance policies.

(24) Cash surrender value of life insurance policies not payable to your estate.

(25) Federal annuities.

(26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

(27) Professionally prescribed health aids for you or any of your dependents.

*(28) Elderly rental assistance allowed pursuant to ORS 310.635.

*(29) Your right to receive, or property traceable to:

*(a) An award under any crime victim reparation law.

*(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.

*(c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

(30) Amounts paid to you as an earned income tax credit under federal tax law.

(31) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

(32) Equitable interests in property.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by an asterisk (*).

SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

COURT ORDER FOR ENTRY OF PREMISES

SECTION 10. Section 11 of this 2007 Act is added to and made a part of ORS 18.860 to 18.993.

SECTION 11. (1) A sheriff may forcibly enter a structure or other enclosure for the purpose of levying on personal property only pursuant to an order issued by the court under this section.

(2) A judgment creditor may at any time file an ex parte motion requesting a court order directed to a sheriff that authorizes the sheriff to use force to enter a structure or other enclosure for the purpose of levying on personal property pursuant to a writ of execution. Except as provided in ORS 18.255, the motion must be filed with the court in which the judgment was entered. The motion must identify the specific structure or other enclosure to be entered and must contain a declaration under penalty of perjury made in the manner described by ORCP 1 E that reflects facts supporting the judgment creditor's good faith belief that personal property subject to a writ of execution is located within the structure or other enclosure.

(3) An order issued under this section shall direct the sheriff to use all force reasonably necessary to enter the structure or other enclosure and levy on personal property pursuant to a writ of execution.

(4) A judgment creditor may deliver a copy of an order issued under this section to a sheriff with a writ of execution, or at any time after a writ of execution is delivered to a sheriff. A sheriff may rely on the copy of the order in entering a structure or other enclosure for the purpose of levying on personal property pursuant to a writ of execution.

EFFECT OF LEVY BY SHERIFF

SECTION 12. ORS 18.878 is amended to read:

18.878. (1) Upon receipt of a writ of execution, the sheriff shall indorse upon the writ of execution the time when the sheriff received the writ. The sheriff shall then levy on property pursuant to the writ of execution and the instructions provided to the sheriff under ORS 18.875 by doing all of the following:

[(1)] (a) Filing a notice of levy with the court if real property is to be sold under the writ, or if residential property as described in ORS 18.901 (2), (3) or (4) is to be sold under the writ.

[(2)] (b) Seizing any tangible personal property that the sheriff has not been instructed to secure in the manner provided by ORS 18.880.

[(3)] (c) Securing any tangible personal property in the manner provided by ORS 18.880 if the sheriff has been instructed to secure the property in that manner.

[(4)] (d) Filing a notice of levy with the court in the manner provided by ORS 18.884 if the sheriff has been instructed to sell intangible personal property.

[(5)] (e) Securing and delivering possession of property if the writ requires that property be delivered under the writ.

(2) When a sheriff levies on personal property in any manner described in subsection (1) of this section, the interest of the judgment creditor in the personal property is the same as that of a secured creditor with an interest in the property perfected under ORS chapter 79.

SECTION 13. ORS 18.888 is amended to read:

18.888. (1) After levying on property, a sheriff shall mail or deliver a copy of the writ of execution to each judgment debtor. If the writ is issued pursuant to an in rem judgment against personal property, the sheriff shall mail or deliver a copy of the writ to the person from whom the property was seized. If the writ is issued pursuant to an in rem judgment against real property, the sheriff shall mail or deliver a copy of the writ to the occupants of the property. The sheriff shall mail the copy of the writ to the addresses included in the instructions to the sheriff. If the judgment debtor has not provided an address for a person, the sheriff need not mail a copy of the writ to the person.

(2) If the sheriff has levied on intangible property, in addition to the copy of the writ required under subsection (1) of this section, the sheriff shall mail or deliver to the persons described in subsection (1) of this section a copy of the notice of levy filed with the court pursuant to ORS 18.878 [(4)] (1)(d).

(3) Unless the writ directs the sheriff to sell or deliver specific real or personal property pursuant to the terms of the judgment, in addition to the copy of the writ required under subsection (1) of this section the sheriff shall mail or deliver to each judgment debtor:

(a) A copy of the notice of levy or a statement of the date and time of the levy; and

(b) A challenge to execution form as provided by ORS 18.896.

LEVYING ON INTANGIBLE PROPERTY

SECTION 14. ORS 18.884 is amended to read:

18.884. (1) A sheriff shall file a notice of levy on intangible property with the court upon receiving the instructions directing the sale of intangible personal property unless the sheriff is provided with an order entered under subsection [(2)] (3) of this section. The notice shall identify the nature of the property to be sold.

(2) A judgment creditor may seek an ex parte order from the court for the purpose of determining whether property to be levied on is tangible or intangible.

[(2)] (3) A judgment creditor may seek an ex parte order from the court directing the manner in which intangible personal property may be secured by the sheriff. The court shall approve the order if the proposed manner of securing the property is reasonable under the circumstances. The

judgment creditor must attach a copy of the order to instructions provided to the sheriff under ORS 18.875. The sheriff shall file a notice of levy with the court upon securing the property in the manner directed by the order.

DEFICIENCY JUDGMENT UPON FORECLOSURE OF MORTGAGE

SECTION 15. ORS 88.070 is amended to read:

88.070. *[When a judgment is given for the foreclosure of any mortgage given to secure payment of the balance of the purchase price of real property, the judgment shall provide for the sale of the real property covered by such mortgage for the satisfaction of the judgment given therein, but the mortgagee shall not be entitled to a deficiency judgment on account of the mortgage or note or obligation secured by the same.]* **When real property is sold pursuant to a judgment foreclosing a mortgage and the proceeds of the sale are not adequate to satisfy the amounts secured by the mortgage, all judgment remedies for collection of the unsatisfied amounts expire when the sale is made if:**

(1) **The mortgage was given to a seller to secure the unpaid balance of the purchase price of real property; or**

(2) **The mortgage was given after September 13, 1975, to a person other than a seller to secure not more than \$50,000 of the unpaid balance of the purchase price of real property used by the purchaser as the primary or secondary single family residence of the purchaser.**

SECTION 16. ORS 86.770 is amended to read:

86.770. (1) A sale made by a trustee under ORS 86.705 to 86.795 shall foreclose and terminate all interest in the property covered by the trust deed of all persons to whom notice is given under ORS 86.740 and 86.750 and of any other person claiming by, through or under such persons, and such persons shall have no right to redeem the property from the purchaser at the trustee's sale. The failure to give notice to any of these persons shall not affect the validity of the sale as to persons so notified.

(2) Except as provided in subsection (4) of this section, no other or further action shall be brought, nor judgment entered for any deficiency, against the grantor, or the grantor's successor in interest, if any, on the note, bond, or other obligation secured by the trust deed or against any other person obligated on such note, bond or other obligation after a sale is made:

(a) By a trustee under ORS 86.705 to 86.795; or

(b) Under a judicial foreclosure of a residential trust deed.

(3) **[Under] Notwithstanding ORS 88.070, when there is a judicial foreclosure of a trust deed that is not a residential trust deed, [notwithstanding the purchase money mortgage provisions of ORS 88.070 and 88.075,]** the judgment shall provide that if the sale proceeds are insufficient to satisfy the judgment, execution may issue[,] for any amount by which the unpaid balance of the obligation secured by the trust deed exceeds the net sale proceeds payable to the beneficiary.

(4) Nothing in this section shall preclude an action judicially or nonjudicially foreclosing the same trust deed as to any other property covered thereby, or any other trust deeds, mortgages, security agreements, or other consensual or nonconsensual security interest or liens covering any other real or personal property security for the note, bond or other obligation secured by the trust deed under which a sale has been made or an action against a guarantor to the extent of any remaining deficiency following judicial foreclosure. A guarantor of an obligation secured by a residential trust deed shall not have the right to recover any deficiency from the grantor or any successor in interest of the grantor.

SECTION 17. ORS 88.075 is repealed.

CREDITOR BOND

SECTION 18. ORS 18.886 is amended to read:

18.886. *[(1) As a condition of levying on personal property under a writ of execution, a sheriff may require that the judgment creditor file with the sheriff a good and sufficient bond or irrevocable letter of credit indemnifying the sheriff against any loss to the sheriff by reason of levying on or selling the property if:]*

[(a) The sheriff has actual notice of any third-party claim to the property;]

[(b) The sheriff has doubt as to the ownership of the property or as to any encumbrances on the property; or]

[(c) The property is perishable.]

[(2) A bond or irrevocable letter of credit under this section must be in double the amount of the value of the property to be levied on, as estimated by the sheriff.]

[(3) The sheriff may not require a bond or irrevocable letter of credit under this section if the writ of execution directs the sale or delivery of specific personal property pursuant to the terms of the judgment.]

(1) Before levying on personal property a sheriff may require that the judgment creditor file with the sheriff a good and sufficient bond or irrevocable letter of credit indemnifying the sheriff against any loss to the sheriff by reason of levying on or selling the property if:

(a) The sheriff has identified a specific person other than the judgment debtor who claims an interest in the property to be levied on; or

(b) The property is perishable.

(2) If a sheriff has reasonable doubt as to the ownership of personal property, or if any encumbrances are asserted against the property, the sheriff may require a bond or irrevocable letter of credit as described in subsection (1) of this section before levying on the property unless:

(a) The judgment creditor delivers to the sheriff a copy of a title document or report for the property issued by a state or federal agency that shows that the judgment debtor is the sole owner of the property; or

(b) If there is no title document for the property to be levied on, the judgment creditor delivers to the sheriff a record, prepared under ORS 79.0523 (4) by a filing office described in ORS 79.0501, showing that no financing statement or lien, or certificate or notice affecting a lien, is in effect for the property to be levied on.

(3) The sheriff may not require a bond or irrevocable letter of credit under this section if the writ of execution directs the sale or delivery of specific personal property pursuant to the terms of the judgment.

(4) A bond or irrevocable letter of credit under this section must be for double the amount of the value of the property to be levied on, as estimated by the sheriff.

SECTION 19. ORS 18.950 is amended to read:

18.950. (1) After the deduction of all sheriff's fees and costs allowed by law that have not been paid by the judgment creditor, and deduction of all other amounts required by law, the sheriff shall deliver all net proceeds from an execution sale to the court administrator with the sheriff's return on the writ. The court shall enter an order of distribution for the proceeds. An order directing distribution to the judgment creditor may be entered ex parte.

(2) A judgment creditor is entitled to recover from the proceeds of the sale all of the following costs of sale paid by the judgment creditor:

(a) Sheriff's fees;

(b) The cost of any title report required to determine persons entitled to notice under ORS 18.918 (2);

(c) The cost of any indemnity bond **or letter of credit** required by ORS 18.886;

(d) Amounts that may be recovered by the judgment creditor under ORS 18.999;

(e) Services fees that may be recovered as costs under ORS 18.912; and

(f) Recording fees incurred pursuant to ORS 18.870.

(3) The court shall order that the costs specified in subsection (2) of this section be paid before application of the remaining proceeds to satisfaction of the judgment.

(4) If any proceeds from an execution sale remain after the payment of costs under subsection (3) of this section and satisfaction of the judgment, the court administrator shall pay the remaining proceeds as directed by the court in the order of distribution.

MISCELLANEOUS

SECTION 20. The unit captions used in this 2007 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2007 Act.

Passed by Senate March 19, 2007

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Secretary of Senate

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President of Senate

Passed by House May 9, 2007

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Speaker of House

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