

A-Engrossed Senate Bill 731

Ordered by the Senate April 29
Including Senate Amendments dated April 29

Sponsored by COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

SUMMARY

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

[Provides that amount in debtor's financial accounts equal to lesser of \$2,500 or total balance of debtor's accounts is not subject to garnishment if specified exempt payment was deposited in one of debtor's accounts by direct deposit or electronic payment within 45 days before writ of garnishment was delivered to financial institution.]

Provides that amount in debtor's financial account equal to lesser of specified exempt payments or total balance of debtor's account is not subject to garnishment if payments were deposited in debtor's account by direct deposit or electronic payment during calendar month that preceded month in which writ of garnishment was delivered to financial institution.

Provides that all funds that are exempt under federal law remain exempt when deposited in debtor's financial account as long as exempt funds are reasonably identifiable. Requires application of first in, first out accounting principles for purposes of identifying exempt funds in financial accounts.

[Increases wild card exemption from \$400 to \$1,000.]

Increases search fee for garnishor other than Department of Revenue.

Prohibits financial institution from charging or collecting garnishment processing fee if none of debtor's property held by financial institution is subject to garnishment.

A BILL FOR AN ACT

Relating to garnishment; creating new provisions; and amending ORS 18.348, 18.618, 18.665, 18.685, 18.790, 18.835, 18.838, 18.845 and 18.896.

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

NONGARNISHABLE AMOUNTS IN FINANCIAL ACCOUNTS

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 18.252 to 18.993.

SECTION 2. (1) If a writ of garnishment is delivered to a financial institution that has an account of the debtor, and one or more payments described in subsection (2) of this section were deposited in the account by direct deposit or electronic payment during the calendar month that preceded the month in which the writ of garnishment is delivered to the financial institution, an amount equal to the lesser of the sum of those payments or the total balance in the debtor's account is not subject to garnishment.

(2) The provisions of this section apply only to:

- (a) Payments from a public or private retirement plan as defined in ORS 18.358;**
- (b) Payments from the Social Security Administration;**
- (c) Public assistance payments from the state or a state agency;**
- (d) Unemployment compensation payments from the state or a state agency;**

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

- 1 (e) Black lung benefits payments from the United States Department of Labor;
- 2 (f) Veteran benefits payments from the Veterans Benefits Administration; and
- 3 (g) Workers' compensation payments from a workers' compensation carrier.

4 (3) The provisions of this section apply only to:

5 (a) Payments that a financial institution can readily identify as being one of the types
6 of payments described in subsection (2) of this section; or

7 (b) Payments for which the debtor has given a financial institution written notification
8 under subsection (4) of this section.

9 (4)(a) At the time a person opens a new account with a financial institution in this state,
10 the financial institution may require that the person sign an affidavit indicating whether the
11 person is receiving any of the payments described in subsection (2) of this section that will
12 be deposited in the account by direct deposit or electronic payment.

13 (b) A financial institution in this state shall make available a form of affidavit that a
14 person may use when opening an account, or may use at any time while the account is open,
15 to indicate that the person is receiving any of the payments described in subsection (2) of
16 this section that will be deposited in the account by direct deposit or electronic payment.

17 (c) Without regard to whether an affidavit has been signed under this subsection, pay-
18 ments that are subject to subsection (1) of this section and that can be readily identified by
19 the financial institution as one of the types of payments described in subsection (2) of this
20 section are not subject to garnishment.

21 (5) A financial institution is not liable to any person for any determination made in good
22 faith, as defined in ORS 73.0103, with respect to whether amounts are subject to garnishment
23 under this section.

24 (6) The provisions of this section do not affect the ability of a debtor to claim any ex-
25 emption that otherwise may be available to the debtor under law for any amounts in an ac-
26 count in a financial institution in excess of the amount specified in subsection (1) of this
27 section.

28 **SECTION 3.** ORS 18.618 is amended to read:

29 18.618. (1)(a) Notwithstanding ORS 18.615, the following are not garnishable property:

30 (A) Equitable interests, except to the extent allowed under ORS chapter 130.

31 (B) Property in the custody of the law.

32 (C) Property in the possession of a conservator.

33 (D) Property in the possession of a personal representative that constitutes the subject matter
34 of a trust contained in a duly probated will of a decedent.

35 (E) If a residential landlord is the garnishee, property in the possession of a residential landlord
36 that is held as a security deposit or prepaid rent under ORS 90.300.

37 (F) The right of a seller under a land sale contract, as defined by ORS 18.960, to receive pay-
38 ments that are due more than 45 days after the writ of garnishment is delivered.

39 **(G) Amounts in an account in a financial institution that are not subject to garnishment
40 under section 2 of this 2009 Act.**

41 (b) If a garnishee holds any property described in paragraph (a) of this subsection, the garnishee
42 must note in the garnishee response required by ORS 18.680 that the garnishee holds the property,
43 but may not deliver the property to the garnishor.

44 (2)(a) Notwithstanding ORS 18.615, wages owing by a garnishee to a debtor for a specific pay
45 period are not garnishable property if:

1 (A) The writ is delivered within two business days before the debtor's normal payday for the
2 pay period;

3 (B) When the writ is delivered to the garnishee, the debtor's wages are paid by direct deposit
4 to a financial institution, or the garnishee uses the Oregon Department of Administrative Services
5 or an independent contractor as defined in ORS 670.600 as payroll administrator for the garnishee's
6 payroll; and

7 (C) Before the writ is delivered to the garnishee, the garnishee issued instructions to the fi-
8 nancial institution or the payroll administrator to pay the debtor for the pay period.

9 (b) If a garnishee owes any wages as described in paragraph (a) of this subsection, the garnishee
10 must so note in the garnishee response required by ORS 18.680.

11 (3) Notwithstanding any other provision of law, if a voluntary or involuntary bankruptcy peti-
12 tion has been filed by or on behalf of the debtor after a writ of garnishment could be issued under
13 ORS 18.605, the garnishment of any property of the debtor in the garnishee's possession, control or
14 custody is stayed pursuant to section 362 of the United States Bankruptcy Code (11 U.S.C. 101 to
15 1330).

16
17 **EXEMPT FUNDS IN FINANCIAL ACCOUNTS**

18
19 **SECTION 4.** ORS 18.348 is amended to read:

20 18.348. (1) *[All]* Funds **that are** exempt from execution *[and other process]* under ORS 18.358,
21 18.385 *[(2) to (4)]*, 238.445, 344.580, 348.863, 401.405, 407.595, 411.760, 414.095, 655.530, 656.234, 657.855
22 and 748.207 *[and 38 U.S.C. 3101 and 42 U.S.C. 407 shall]* remain exempt when deposited in an ac-
23 count *[of a judgment debtor]* **in a financial institution** as long as the exempt funds are **reasonably**
24 identifiable.

25 (2) *[Except as provided in subsection (3) of this section, the provisions of]* Subsection (1) of this
26 section *[do]* **does** not apply to any accumulation of funds greater than \$7,500.

27 *[(3) Subsection (2) of this section does not apply to funds exempt from execution or other process*
28 *under 42 U.S.C. 407.]*

29 **(3) All funds that are exempt under federal law remain exempt when deposited in an ac-**
30 **count in a financial institution as long as the exempt funds are reasonably identifiable.**

31 **(4) The application of subsections (1) and (3) of this section is not affected by the**
32 **commingling of exempt and nonexempt funds in an account. For the purpose of identifying**
33 **exempt funds in an account, first in, first out accounting principles shall be used.**

34 **(5) The provisions of this section do not affect the duties of a garnishee with respect to**
35 **amounts in accounts that are not subject to garnishment under section 2 of this 2009 Act.**

36
37 **FINANCIAL INSTITUTION FEES**

38
39 **SECTION 5.** ORS 18.790 is amended to read:

40 18.790. (1) Except as provided in subsection *[(2)]* (4) of this section, *[the garnishor must pay a*
41 *\$10 search fee]* at the time of delivery of any writ of garnishment on a financial institution[,] or at
42 the time a notice of garnishment is delivered to the financial institution under ORS 18.854:

43 **(a) A search fee of \$10 must be paid to the financial institution if the garnishor is the**
44 **Department of Revenue.**

45 **(b) A search fee of \$15 must be paid to the financial institution if the garnishor is a**

1 **person other than the department.**

2 (2) A separate search fee must be *[delivered]* **paid under this section** to the financial institution
3 for each debtor if the writ is issued for more than one debtor under ORS 18.607 (5).

4 (3) If the search fee required *[by]* **under** this section is not paid:

5 (a) The garnishment is not effective to garnish any property of the debtor; and

6 (b) The financial institution need not file a garnishee response.

7 *[(2)]* (4) The search fee *[provided for in]* **required under** this section need not be paid to a fi-
8 nancial institution if the debtor is an employee of the financial institution.

9 *[(3)]* (5) Notwithstanding subsection (1) of this section, a financial institution may enter into an
10 agreement with any state agency authorized to garnish pursuant to ORS 18.645 or 18.854 for periodic
11 billing and payment of garnishee search fees required under this section.

12 *[(4)]* (6) The right of a financial institution to receive the search fee *[provided for in]* **required**
13 **under** this section does not in any way restrict or impair the right of the financial institution to
14 charge and collect an additional garnishment processing fee from any debtor whose property the
15 financial institution holds, or to whom the financial institution owes money. However, a financial
16 institution may not charge or collect a garnishment processing fee in violation of ORS 652.610. If a
17 financial institution charges a garnishment processing fee, the financial institution may collect the
18 fee by deducting the amount of the fee from any amount that the financial institution owes to the
19 debtor.

20 (7) **A financial institution may not charge or collect a garnishment processing fee under**
21 **subsection (6) of this section for a writ of garnishment if none of the debtor's property held**
22 **by the financial institution is subject to garnishment.**

23
24 **ADJUSTMENTS TO GARNISHMENT FORMS**

25
26 **SECTION 6.** ORS 18.665 is amended to read:

27 18.665. (1) Upon receiving a writ of garnishment, the garnishee shall determine whether a
28 garnishee response is required under ORS 18.680 and 18.682. The garnishee has no duty to determine
29 whether the garnishor, sheriff or other person has complied with the requirements of ORS 18.600 to
30 18.850, or to otherwise determine whether the writ of garnishment is valid. If a garnishee response
31 is required, the garnishee must make a diligent effort to determine whether the garnishee is the
32 employer of the debtor and whether the garnishee has possession, control or custody of any
33 **garnishable** property of the debtor as described in ORS 18.615. If the garnishee has possession,
34 control or custody of *[such]* **garnishable** property, the garnishee must hold the property, or as much
35 of the property as is necessary to satisfy the garnishment, as required by ORS 18.600 to 18.850, and
36 thereafter make delivery of the property in the manner required by ORS 18.600 to 18.850.

37 (2) The duty of a garnishee to hold and deliver property is not affected by joint ownership of
38 the property. If a garnishee holds property that is owned, or appears to be owned, by the debtor and
39 one or more other persons, the garnishee must still hold and deliver all of the property, or as much
40 of the property as is necessary to satisfy the garnishment.

41 (3) If a single writ is issued for two or more joint debtors under ORS 18.607 (5) and the
42 garnishable property in the garnishee's possession, control or custody exceeds the amount necessary
43 to satisfy the garnishment, the garnishee must hold and deliver as much of the property as is nec-
44 essary to satisfy the garnishment but may select, in the sole discretion of the garnishee, the property
45 to hold and deliver without regard to which of the joint debtors owns the property.

1 **SECTION 7.** ORS 18.685 is amended to read:

2 18.685. A garnishee must note upon a garnishee response the date on which the garnishee re-
3 ceived the writ of garnishment. The garnishee must also note upon the response the following in-
4 formation and deliver the response in the manner provided by ORS 18.690:

5 (1) If the garnishee discovers that a voluntary or involuntary bankruptcy petition has been filed
6 by or on behalf of the debtor and the petition was filed after the date shown on the face of the writ
7 as the date on which the judgment was entered or otherwise first became subject to garnishment.

8 (2) If the garnishee does not employ the debtor and the garnishee does not have any garnishable
9 property of the debtor in the possession, control or custody of the garnishee, the garnishee must so
10 note on the response.

11 (3) If the garnishee employs the debtor, the garnishee must so state on the response and make
12 all other responses required by this section or ORS 18.688. The garnishee must thereafter make
13 payment under the writ in the manner provided by ORS 18.735.

14 (4) If the garnishee has any cash belonging to the debtor **that is garnishable**, or the garnishee
15 owes any money to the debtor other than wages that is due as of the time the response is made, the
16 garnishee must so note on the response. The garnishee must make payment with the response in the
17 manner provided by ORS 18.730 of the amount subject to the garnishment, or of such amount as will
18 satisfy the garnishment, whichever amount is less.

19 (5) If the garnishee owes any money to the debtor other than wages that is not due as of the
20 time the response is made but that will become due within 45 days after the time the writ is deliv-
21 ered, the garnishee must so note on the response. When the money becomes due, the garnishee must
22 make payment in the manner provided by ORS 18.732 of the amount subject to the garnishment, or
23 of such amount as will satisfy the garnishment, whichever amount is less.

24 (6) Except as provided in ORS 18.618 (1)(a)(F), if the garnishee owes any money to the debtor
25 other than wages that is not due as of the time the response is made and the money will not become
26 due within 45 days after the time the writ is delivered, the garnishee must so note on the response.
27 The garnishee must thereafter comply with ORS 18.750 to 18.760.

28 (7) If the garnishee has any garnishable property of the debtor in the possession, control or
29 custody of the garnishee that is not cash or owed money, the garnishee must so note on the re-
30 sponse. The garnishee must thereafter comply with ORS 18.750 to 18.760.

31 (8) If the garnishee can determine from the writ that the garnishee may owe money to or hold
32 garnishable property of the debtor, but is not sure what or how much, the garnishee must so state
33 on the response and must state that the garnishee will file an amended response when the garnishee
34 determines what or how much money or property the garnishee owes or holds.

35 (9) If the garnishee determines that the writ of garnishment does not comply on its face with
36 ORS 18.600 to 18.850, or if the garnishee is unable to determine the identity of the debtor from the
37 information contained in the writ, the writ of garnishment is ineffective to garnish the property of
38 the debtor. The garnishee must so note on the response and provide an explanation.

39 (10) If, before delivering the garnishee response, the garnishee receives an order to withhold
40 income issued under ORS chapter 25 that applies to the income of the debtor, the garnishee must
41 so note on the response. The garnishee must provide details of the order to withhold income, in-
42 cluding the name of the agency serving the order, the date the order was served on the garnishee
43 and the amount to be withheld. If the garnishee employs the debtor, the garnishee must make the
44 responses required under ORS 18.688.

45 (11) If the garnishee receives notice of a challenge to the garnishment before delivering the re-

1 sponse, the garnishee must so note on the response. The garnishee must thereafter comply with ORS
2 18.708.

3 **SECTION 8.** ORS 18.835 is amended to read:

4 18.835. A garnishee response must be in substantially the following form:

5 _____

6
7 _____ COURT
8 COUNTY OF _____

9
10 _____)
11 Plaintiff,) GARNISHEE
12) RESPONSE
13 vs.) Case No. _____
14)
15 _____)
16 Defendant.)

17
18 The writ of garnishment was delivered to me on the ____ day of _____, 2____. The following
19 responses are accurate and complete as of that date.

20 _____

21
22 PART I: DEBTOR'S PROPERTY
23 GENERALLY
24 (ALL GARNISHEES MUST FILL OUT
25 THIS PORTION OF THE RESPONSE)

26
27 Place a check in front of all the following statements that apply. You may need to check more than
28 one statement.

29
30 ___ I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or
31 on behalf of the Debtor after the date shown on the face of the writ as the date on which
32 the judgment was entered against the Debtor or after the debt otherwise became subject to
33 garnishment. (You need not complete any other part of this response, but you must sign the
34 response and deliver it in the manner specified in Step 2 of the Instructions to Garnishee
35 form.)

36
37 ___ I do not employ the Debtor, I do not have in my possession, control or custody any personal
38 property of the Debtor, and I do not owe any debts or other obligations to the Debtor.

39
40 ___ I employ the Debtor. (You must complete Part II of this response.)

41
42 ___ I have in my possession, control or custody **garnishable** money that belongs to the Debtor
43 (other than wages), or I owe a debt or other obligation to the Debtor (other than wages)
44 that is due as of the time of this response. I am forwarding this money, or enough of it to
45 satisfy the garnishment, to the Garnishor.

1 — I owe a debt or other obligation to the Debtor (other than wages) that was not due as of
2 the time of this response but will become due within 45 days after the writ was delivered
3 to me. I will forward the money, or enough of it to satisfy the garnishment, to the
4 Garnishor when the debt or other obligation becomes due.

5
6 — I owe the following debt or other obligation to the Debtor (other than wages) that will not
7 become due within 45 days after the date that the writ was delivered to me. I will not make
8 any payments on the debt or obligation until I receive instructions from the Sheriff or until
9 30 days have passed from the date on which I deliver this response. (See Instructions to
10 Garnishee form.)

11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____

19
20 — I have in my possession, control or custody the following personal property (other than
21 money) that belongs to the Debtor. I will hold all of the property for the Garnishor until I
22 receive instructions from the Sheriff or until 30 days have passed from the date on which I
23 deliver this response. (See Instructions to Garnishee form.)

24 _____
25 _____
26 _____
27 _____
28 _____
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30 _____
31 _____

32
33 — I may owe money to or hold property of the Debtor, but I am not sure what or how much
34 it might be. (You must provide an explanation in the following space and you must deliver
35 an amended response when you find out. You must deliver an amended response even if you
36 find out that you have no property of the Debtor or owe no money to the Debtor.)

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— **(FINANCIAL INSTITUTIONS ONLY) We hold one or more accounts for the Debtor, of which \$_____ is not subject to garnishment under section 2 of this 2009 Act. We are forwarding all other garnishable amounts, or enough of it to satisfy the garnishment, to the Garnishor.**

— The writ of garnishment delivered to me, on its face, does not comply with the Oregon laws governing writs of garnishment, or I cannot determine the identity of the Debtor from the information in the writ. (You must provide an explanation in the following space.)

— I have received an order to withhold income that applies to the income of the Debtor. The order to withhold income has priority over the writ of garnishment, and compliance with the order will reduce or eliminate the money that I would otherwise deliver under the writ. (Provide details, including the name of the agency serving the order to withhold income, the date the order was served on you and the amount to be withheld. If you employ the Debtor, you must still complete Part II of this response.)

— I have received notice of a challenge to the garnishment. I will deliver to the court administrator all money that I would otherwise deliver to the Garnishor. (See Step 3 of Instructions to Garnishee form.)

— Other (Explain)

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PART II: DEBTOR'S EMPLOYER
(GARNISHEES WHO EMPLOY THE
DEBTOR MUST FILL OUT THIS
PORTION OF THE RESPONSE)

Place a check in front of all the following statements that apply. You may need to check more than one statement.

NOTE: THE LAW PROHIBITS DISCHARGE OF THE DEBTOR FROM EMPLOYMENT BY REASON OF GARNISHMENT.

___ I employ the Debtor. The Debtor is paid on a _____ basis (insert "weekly," "monthly" or other pay period). Wages will next be payable to the Debtor on the ____ day of _____, 2___. I will complete a Wage Exemption Calculation form for each payment of wages that is made during the 90-day period immediately following the date that the writ of garnishment was delivered to me. I will also complete a Wage Exemption Calculation form for the payday immediately following the end of the 90-day period. I will forward to the Garnishor on each of these occasions those wages calculated to be subject to garnishment, or enough of those wages to satisfy the garnishment.

___ I had already received a writ of garnishment from another Garnishor before this writ was delivered to me. Under Oregon law, the previous writ has priority. The previous writ will terminate on the ____ day of _____, 2__.

I hereby certify that I have fully and accurately completed this garnishee response.

Dated _____, 2__

Name of Garnishee

Signature

1 Telephone number _____

2
3 Fax number (if available) _____

4
5 _____
6 Address
7 _____
8

9 **SECTION 9.** ORS 18.838 is amended to read:

10 18.838. Instructions to garnishees must be in substantially the following form:
11 _____

12
13 INSTRUCTIONS TO GARNISHEE
14

15 Except as specifically provided in these instructions, you must complete and deliver the
16 Garnishee Response within seven calendar days after you receive the writ of garnishment. If the
17 writ does not comply with Oregon law, the writ is not effective to garnish any property of the
18 Debtor, but you still must complete and deliver the Garnishee Response. You must complete and
19 deliver the response even though you cannot determine from the writ whether you hold any property
20 or owe any debt to the Debtor. If the seventh calendar day is a Saturday, Sunday or legal holiday,
21 you must deliver your response on or before the next following day that is not a Saturday, Sunday
22 or legal holiday.

23
24 The writ is not effective, and you need not make a Garnishee Response, if:

- 25
- 26 • You do not receive the writ within 60 days after the date of issuance shown on the face of
27 the writ.
 - 28
 - 29 • You do not receive an original writ of garnishment or a copy of the writ.
 - 30

31 Statutes that may affect your rights and duties under the writ can be found in ORS 18.600 to
32 18.850.

33
34 **NOTE:** The Garnishor may be the Creditor, the attorney for the Creditor or some other person
35 who is authorized by law to issue the writ of garnishment. See the writ to determine who the
36 Garnishor is.

37
38 STEP 1. FILL OUT THE GARNISHEE RESPONSE.
39

40 All garnishees who are required to deliver a garnishee response must fill in Part I of the
41 Garnishee Response. Garnishees who employ the Debtor must also fill in Part II of the response.
42 You should keep a copy of the response for your records.

43
44 Completing Part I of the Garnishee Response. If you discover before you deliver your response
45 that a bankruptcy petition has been filed by or on behalf of the Debtor, and the bankruptcy petition

1 was filed after a judgment was entered against the Debtor or after the debt otherwise became sub-
2 ject to garnishment (see the date specified in the writ), you must put a check by the appropriate
3 statement in Part I. If a bankruptcy petition has been filed, you should not make any payments to
4 the Garnishor unless the court orders otherwise. You need not complete any other part of the re-
5 sponse, but you still must sign the response and deliver it in the manner described in Step 2 of these
6 instructions.

7 In all other cases you must list in Part I all money and personal property of the Debtor that is
8 in your possession, control or custody at the time of delivery of the writ. You must also list all debts
9 that you owe to the Debtor, whether or not those debts are currently due (e.g., money loaned to you
10 by the Debtor that is to be repaid at a later time).

11 If you are the employer of the Debtor at the time the writ is delivered to you, you must put a
12 check by the appropriate statement in Part I. In addition, you must complete Part II of the response.

13 If you believe that you may hold property of the Debtor or that you owe a debt to the Debtor,
14 but you are not sure, you must put a check by the appropriate statement and provide an explana-
15 tion. When you find out what property you hold that belongs to the Debtor, or you find out whether
16 you owe money to the Debtor and how much, you must prepare and deliver an amended response.
17 You must do this even if you find out that you have no property of the Debtor or that you do not
18 owe anything to the Debtor.

19 If you determine that the writ, on its face, does not comply with Oregon laws governing writs
20 of garnishment, or if you are unable to determine the identity of the Debtor from the information
21 in the writ, then the writ is not effective to garnish any property of the Debtor. You must put a
22 check by the appropriate statement in Part I and provide an explanation. You still must complete
23 the response and deliver the response in the manner described in Step 2 of these instructions.

24 If you have received an order to withhold income that applies to the income of the Debtor and
25 that order has priority over the garnishment, and if compliance with the order will reduce or elim-
26 inate the money or property that you would otherwise deliver under the garnishment, you must put
27 a check by the appropriate statement in Part I. You still must fill out the remainder of the response
28 and deliver the response in the manner described in Step 2 of these instructions. If you employ the
29 Debtor, you still must complete Part II of the response.

30 If you receive notice of a challenge to the garnishment before you send your response, you must
31 complete and deliver your response as otherwise required by these instructions. However, see Step
32 3 of these instructions regarding payment of money or delivery of property after receipt of notice
33 of a challenge to the garnishment.

34 If you owe a debt to the Debtor and the Debtor owes a debt to the holder of an underlying lien
35 on your property, you may be able to offset the amount payable to the underlying lienholder. See
36 ORS 18.620. You must note that you have made the offset in Part I of the response (under
37 "Other") and specify the amount that was offset.

38
39 Completing Part II of the Garnishee Response (employers only). You must fill in Part II of the
40 response if you employ the Debtor on the date the writ of garnishment is delivered to you, or if you
41 previously employed the Debtor and still owe wages to the Debtor on the date the writ is delivered
42 to you.

43
44 Wages affected. Except as provided below, the writ garnishes all wages that you owe to the
45 Debtor for work performed before the date you received the writ, even though the wages will not

1 be paid until a later date. The writ also garnishes all wages that are attributable to services per-
2 formed during the 90-day period following the date you received the writ, even though you would
3 not pay the Debtor for all or part of those services until after the end of the 90-day period. Wages
4 subject to garnishment under the writ include all amounts paid by you as an employer, whether on
5 an hourly, weekly or monthly basis, and include commission payments and bonuses.

6
7 Example 1: Debtor A is employed by you and is paid a monthly salary on the first day of
8 each month. You receive a writ of garnishment on July 17. The writ garnishes all wages
9 that you owe to Debtor A for work performed on or before July 17. If Debtor A was paid
10 on July 1 for services performed in the month of June, the writ garnishes Debtor A's salary
11 for the period beginning July 1 and ending October 15 (90 days after receipt of the writ).

12
13 The writ does not garnish any wages you owe to a Debtor for a specific pay period if:

14 (a) The writ is delivered to you within two business days before the Debtor's normal payday for
15 the pay period;

16 (b) When the writ is delivered to you, the Debtor's wages are paid by direct deposit to a finan-
17 cial institution, or you use an independent contractor as payroll administrator for your payroll; and

18 (c) Before the writ was delivered to you, you issued instructions to the financial institution or
19 the payroll administrator to pay the Debtor for the pay period.

20 If any wages are not garnishable by reason of the issuance of instructions to a financial insti-
21 tution or a payroll administrator as described above, you must so note in the Garnishee Response.
22 Thereafter, you must pay to the Garnishor all wages that are subject to garnishment that are at-
23 tributable to services performed by the Debtor during the 90-day period following the date you re-
24 ceived the writ.

25
26 Calculation of wages subject to garnishment. A Wage Exemption Calculation form is attached
27 to the writ of garnishment. You must use this form to calculate the amount of the Debtor's wages
28 that is subject to garnishment. You should read the instructions printed on the Wage Exemption
29 Calculation form to determine the normal wage exemption and the minimum wage exemption for
30 each payment you make under the writ.

31 A Wage Exemption Calculation form must be sent with the first payment you make under the
32 writ. For the 90-day period during which the writ is effective, you must also fill out and return a
33 Wage Exemption Calculation form with a subsequent payment any time the initial calculation
34 changes. Finally, you must fill out and return a Wage Exemption Calculation form with the final
35 payment that you make under the writ.

36
37 Payment of amount subject to garnishment. Payments under the writ must be made at the fol-
38 lowing times, unless the amount owing on the judgment or other debt is fully paid before the final
39 payment is made or the writ is released:

40 (a) You must make a payment to the Garnishor of all wages subject to garnishment at the time
41 you next pay wages to the Debtor. Complete the wage exemption computation, using the Wage Ex-
42 emption Calculation form, to determine the portion of the Debtor's wages that is subject to
43 garnishment. Be sure to adjust the minimum exemption amount for any payment that covers less
44 than a full pay period. You must include a copy of the Wage Exemption Calculation form with this
45 first payment.

1 Example 2: Using the facts given in Example 1, when you next make any payment of wages
2 to Debtor A after you receive the writ on July 17, you must complete the Wage Exemption
3 Calculation form and send the form to the Garnishor along with all amounts determined to
4 be subject to garnishment that are attributable to the period covered by the payment. If you
5 pay Debtor A on August 1, the payment will be for all wages attributable to the period be-
6 ginning July 1 and ending July 31.

7

8 (b) Unless the writ of garnishment is satisfied or released, during the 90-day period following the
9 date you received the writ, you must pay to the Garnishor all wages that are determined to be
10 subject to garnishment whenever you issue a paycheck to the Debtor. If the Debtor is paid on a
11 weekly basis, you must make payment under the writ on a weekly basis. If the Debtor is paid on a
12 monthly basis, you must make payment under the writ on a monthly basis. If the amount paid to the
13 Debtor varies from paycheck to paycheck, or changes at any time from the amount being paid at the
14 time the writ was delivered to you, you must perform a new wage exemption computation to deter-
15 mine the amount of wages subject to garnishment under the writ. You must send a copy of the new
16 Wage Exemption Calculation form with your payment to the Garnishor.

17

18 Example 3: Using the facts given above, as you make each subsequent payment of wages to
19 Debtor A you must make a payment of that portion of the Debtor’s wages that are subject
20 to garnishment. If you continue to pay Debtor A on the first of each month, payments must
21 be made on September 1 and October 1.

22

23 (c) Upon the expiration of the 90-day period, you must make a final payment to the Garnishor
24 for all wages that were owing to the Debtor for the work performed by the Debtor through the 90th
25 day following your receipt of the writ. This payment may be made at the time of the Debtor’s next
26 paycheck. You will need to complete another Wage Exemption Calculation form to determine the
27 amount of the wages subject to garnishment.

28

29 Example 4: Using the facts given above, you must make a final payment for the wages owing
30 to Debtor A for the period beginning October 1 and ending October 15. You may make this
31 payment at the time you issue Debtor A’s paycheck on November 1, but you must make the
32 payment at any time you issue a paycheck to Debtor A after October 15. Be sure that in
33 completing the wage exemption computation for the final payment you adjust the minimum
34 exemption amount to take into account the fact that the period covered is only 15 days of
35 the full month (see instructions on Wage Exemption Calculation form).

36

37 Processing fee. You may collect a \$1 processing fee for each week of wages, or fraction of a
38 week of wages, for which a payment is made under the writ. The fee must be collected after you
39 make the last payment under the writ. The fee must be withheld from the wages of the debtor, and
40 is in addition to the amounts withheld for payment to the garnishor under the writ or under any
41 other writ you have received.

42

43 If you receive more than one writ of garnishment. If you receive a second writ of garnishment
44 for the same Debtor from another Garnishor, the first writ will have priority for wages. The priority
45 of the first writ lasts for the 90-day period following delivery of that writ to you, or until the first

1 writ is paid in full, whichever comes first. In your response to the second writ, you must put a check
2 by the appropriate statement in Part II and indicate the date on which the first writ will expire (90
3 days after the date you received the writ). You should make no payments under the second writ
4 until expiration of the first writ. The expiration date of the second writ is 90 days after the date
5 you received the second writ; the expiration date is not affected by any delay in payment attribut-
6 able to the priority of the first writ.

7
8 STEP 2. DELIVER THE GARNISHEE RESPONSE.

9
10 You must deliver your Garnishee Response and copies of the response in the manner provided
11 in this step. The response and copies may be mailed or delivered personally.

12
13 You must complete and deliver the Garnishee Response within seven calendar days after you
14 receive the writ of garnishment. If the seventh calendar day is a Saturday, Sunday or legal holiday,
15 you must deliver your response on or before the next following day that is not a Saturday, Sunday
16 or legal holiday.

17
18 If you are required to hold any property under the writ or make any payment under the writ,
19 either at the time of making your response or later, you must:

20 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
21 the writ under Important Addresses.

22 (b) Send a copy of your Garnishee Response to the court administrator at the address indicated
23 on the writ under Important Addresses.

24 (c) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
25 under Important Addresses.

26
27 If you are not required to hold any property under the writ or make any payment under the
28 writ, either at the time of making your response or later, you must:

29 (a) Send the original of your Garnishee Response to the Garnishor at the address indicated on
30 the writ under Important Addresses.

31 (b) Send a copy of your Garnishee Response to the Debtor if an address is indicated on the writ
32 under Important Addresses.

33
34 STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

35
36 As long as the writ is in effect, you may be liable to the Creditor if you pay any debt or turn
37 over any property to the Debtor except as specifically allowed by law. If you have any money or
38 property of the Debtor in your possession, control or custody at the time of delivery of the writ, or
39 owe any debt to the Debtor, you must pay the money or hold the property as required by this step.
40 Exceptions to this requirement are listed below.

41
42 IF YOU ARE HOLDING MONEY FOR THE DEBTOR OR OWE A DEBT THAT IS CUR-
43 RENTLY DUE, you must pay the money to the Garnishor with your response. You must send your
44 payment to the Garnishor at the address indicated on the writ under Important Addresses. Make
45 your check payable to the Garnishor.

1 IF YOU OWE A DEBT TO THE DEBTOR THAT WILL BECOME DUE WITHIN 45 DAYS
2 AFTER THE DATE YOU RECEIVED THE WRIT, you must send your payment directly to the
3 Garnishor at the address provided in the writ when the debt becomes due. Make your check payable
4 to the Garnishor.

5
6 IF YOU ARE HOLDING PROPERTY THAT BELONGS TO THE DEBTOR, OR OWE A DEBT
7 TO THE DEBTOR THAT WILL NOT BECOME DUE WITHIN 45 DAYS AFTER THE DATE YOU
8 RECEIVED THE WRIT, you must keep the property or debt in your possession, control or custody
9 until you receive written notice from the Sheriff. The Sheriff's notice will tell you what to do with
10 the property or debt. If you have followed all of the instructions in the writ and you receive no
11 notice from the Sheriff within 30 days after the date on which you delivered your Garnishee Re-
12 sponse, you may treat the writ as being of no further force or effect.

13
14 **EXCEPTIONS:**

15
16 1. Challenge to garnishment or specific directions from court. If you are making any payments
17 under the garnishment and before making a payment you receive notice of a challenge to the
18 garnishment from the court, or receive a specific direction from the court to make payments to the
19 court, you must send or deliver the payment directly to the court administrator. If the money is
20 currently due when you receive the notice, send the payment promptly to the court. If the payment
21 is for a debt that is payable within 45 days after you receive the writ, make the payment to the
22 court promptly when it becomes due. If you make payment by check, make the check payable to the
23 State of Oregon. Because you may be liable for any payment that does not reach the court, it is
24 better not to send cash by mail.

25 A challenge to the garnishment does not affect your duty to follow the instructions you receive
26 from the Sheriff for property that belongs to the Debtor and debts that you owe to the Debtor that
27 do not become due within 45 days.

28
29 2. Previous writ of garnishment. If you receive a second writ of garnishment for the same Debtor
30 from another Garnishor, the first writ will have priority and you need not make payments or deliver
31 property under the second writ to the extent that compliance with the first writ will reduce or
32 eliminate the payment of money or delivery of property that you would otherwise make under the
33 garnishment. You must still deliver a Garnishee Response to the second writ, and must commence
34 payment under the second writ as soon as the first writ is satisfied or expires.

35
36 3. Offset for payment of underlying lien. If you owe a debt to the Debtor and the Debtor owes
37 a debt to the holder of an underlying lien on your property, you may be able to offset the amount
38 payable to the underlying lienholder. See ORS 18.620.

39
40 4. Subsequent events:

41
42 (a) Bankruptcy. If you make your response and then discover that a voluntary or involuntary
43 bankruptcy petition has been filed by or on behalf of the Debtor after the judgment was entered
44 against the Debtor or after the debt otherwise became subject to garnishment (see date in writ), you
45 may not make any further payments or delivery of property under the writ unless the court orders

1 otherwise. If you have not delivered all property that is subject to garnishment under this writ when
2 you discover that a bankruptcy petition has been filed, you must mail the following notice to the
3 Garnishor and to the Debtor.

4
5 (b) Order to withhold income. If you make your response and then receive an order to withhold
6 income that has priority over the writ, you may make payments or deliver property under the writ
7 only after payment of the amounts required under the order to withhold income. If you have not
8 delivered all property that is subject to garnishment under this writ when you receive an order to
9 withhold income that has priority, you must mail the following notice to the Garnishor and to the
10 Debtor.

11
12
13 SUPPLEMENTAL GARNISHEE
14 RESPONSE
15

16 TO: The Garnishor and the Debtor

17
18 RE: Writ of garnishment received _____, 2__ (date), in the case of _____ (Plaintiff)
19 vs. _____ (Defendant), Circuit Court of _____ County, Oregon, Case No. _____

20
21 The undersigned Garnishee furnished a Garnishee Response to this writ of garnishment on
22 _____, 2__ (date). Since that time (check appropriate statement):

23
24 — I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or
25 on behalf of the Debtor after the judgment was entered against the Debtor or after the debt
26 otherwise became subject to garnishment.

27
28 — I have received an order to withhold income of the Debtor by reason of a support obligation.
29 Under ORS 25.375, the order to withhold income has priority over any other legal process
30 under Oregon law against the same income. The withholding of income pursuant to the or-
31 der to withhold income might reduce or eliminate subsequent payments under the
32 garnishment. (Provide details, including the name of the agency serving the order to with-
33 hold, the date the order was served on you and the amounts to be withheld.)

34
35 Dated _____, 2__

36
37 _____
38 Name of Garnishee

39
40 _____
41 Signature

42
43 _____
44 Address

SPECIAL INSTRUCTIONS FOR BANKS
AND OTHER FINANCIAL INSTITUTIONS

If you hold an account for the debtor, and any of the following payments has been identified by the debtor, or can readily be identified by you, as having been deposited in the account by direct deposit or electronic payment during the calendar month that preceded the month in which the writ of garnishment was delivered to you, an amount equal to the lesser of the sum of those payments or the total balance in the debtor’s account is not subject to garnishment, and you may not deliver that amount to the garnishor:

- (a) Payments from a public or private retirement plan;
- (b) Payments from the Social Security Administration;
- (c) Public assistance payments from the state or a state agency;
- (d) Unemployment compensation payments from the state or a state agency;
- (e) Black lung benefits payments from the United States Department of Labor;
- (f) Veteran benefits payments from the Veterans Benefits Administration; and
- (g) Workers’ compensation payments from a workers’ compensation carrier.

If the Garnishor fails to pay the search fee required by ORS 18.790 and you do not employ the Debtor, you are not required to deliver a Garnishee Response and you may deal with any property of the Debtor as though the garnishment had not been issued.

If the Debtor owes a debt to you that was due at the time you received the writ of garnishment, you may be able to offset the amount of that debt. See ORS 18.795. You must note that you have made the offset in Part I of the Garnishee Response (under “Other”) and specify the amount that was offset.

Before making a payment under the writ, you may first deduct any processing fee that you are allowed under ORS 18.790. **You may not deduct a processing fee if all amounts held by you for the debtor are not subject to garnishment.**

You need not deliver any property contained in a safe deposit box unless the Garnishor pays you in advance for the costs that will be incurred in gaining entry to the box. See ORS 18.792.

SECTION 10. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

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) \$196 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) **All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in exempt wages, [Social Security benefits (other than SSI),] retirement benefits, welfare, unemployment benefits and disability benefits, that are held in a bank account [when placed in a checking or savings account (up to \$7,500)]. You may attach copies of bank statements to the Challenge to Garnishment form if you claim this exemption.**

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

(b) For a manufactured dwelling or floating home located on land that is owned by you, \$23,000. If you jointly own the manufactured dwelling or floating home 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.

- 1 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 2 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
- 3 \$1,800.
- 4 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
- 5 and their food for 60 days.
- 6 (18) Provisions and fuel for your family for 60 days.
- 7 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
- 8 may not exceed \$1,000.
- 9 (20) Public or private pensions.
- 10 (21) Veterans' benefits and loans.
- 11 (22) Medical assistance benefits.
- 12 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 13 (24) Cash surrender value of life insurance policies not payable to your estate.
- 14 (25) Federal annuities.
- 15 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
- 16 emption as wages).
- 17 (27) Professionally prescribed health aids for you or any of your dependents.
- 18 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.
- 19 (29) Your right to receive, or property traceable to:
- 20 (a) An award under any crime victim reparation law.
- 21 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
- 22 jury suffered by you or an individual of whom you are a dependent.
- 23 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
- 24 are or were a dependent, to the extent reasonably necessary for your support and the support of
- 25 any of your dependents.
- 26 (30) Amounts paid to you as an earned income tax credit under federal tax law.
- 27 *(31) Interest in personal property to the value of \$400, but this cannot be used to increase the
- 28 amount of any other exemption.
- 29 (32) Equitable interests in property.
- 30 (33) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.
- 31 (34) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
- 32 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
- 33 Calculation form.

34

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

37

38

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

45

1 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

2 You may seek to reclaim your exempt property by doing the following:

3 (1) Fill out the Challenge to Garnishment form that you received with this notice.

4 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
5 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
6 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must
7 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
8 other money or property is exempt, or claim that the property is not subject to garnishment, you
9 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
10 showing that your challenge is made on time, so you should keep records showing when the chal-
11 lenge was mailed or delivered.

12 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
13 before applying it to the Creditor's use. You may be able to keep the property from being used by
14 the Creditor by promptly following (1) and (2) above.

15
16 You should be prepared to explain your exemption in court. If you have any questions about the
17 garnishment or the debt, you should see an attorney.

18 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
19 ING PURPOSES:

20 (1) To claim such exemptions from garnishment as are permitted by law.

21 (2) To assert that property is not garnishable property under ORS 18.618.

22 (3) To assert that the amount specified in the writ of garnishment as being subject to
23 garnishment is greater than the total amount owed.

24
25 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
26 VALIDITY OF THE DEBT.

27 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
28 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
29 that you could be subject to are listed in ORS 18.715.

30 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
31 payments under the garnishment to the court, and the Garnishor may be required to pay to the
32 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
33 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
34 their responsibilities, see ORS 18.705 and 18.708.

35
36
37 **SECTION 11.** ORS 18.896 is amended to read:

38 18.896. (1) The challenge to execution form described in this section does not expand or restrict
39 the law relating to exempt property. A determination as to whether property is exempt from at-
40 tachment or execution must be made by reference to other law. The form provided in this section
41 may be modified to provide more information or to update the notice based on subsequent changes
42 in exemption laws.

43 (2) A challenge to execution form must be in substantially the following form:
44
45

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_____ COURT
COUNTY OF _____

_____) CHALLENGE TO
Plaintiff,) EXECUTION
)
vs.) Case No. _____
)
)
Defendant.)

THIS FORM MAY BE USED BY THE DEBTOR ONLY 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.

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

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 Telephone

1 Number _____ Number _____
2 (Required) (Required)

3
4
5 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

6 You may seek to reclaim your exempt property by doing the following:

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

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

14
15 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR THE FOLLOWING
16 PURPOSES:

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

20
21 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
22 VALIDITY OF THE DEBT.

23
24 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
25 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
26 to are listed in ORS 18.899.

27
28 NOTICE OF EXEMPT PROPERTY

29
30 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may
31 be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
32 are enclosed.

33 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
34 FULLY.

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

- 37 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
38 amounts is greater:
39 (a) 75 percent of your take-home wages; or
40 (b) \$196 per workweek.
41 (2) Social Security benefits.
42 (3) Supplemental Security Income (SSI).
43 (4) Public assistance (welfare).
44 (5) Unemployment benefits.
45 (6) Disability benefits (other than SSI benefits).

- 1 (7) Workers' compensation benefits.
- 2 (8) **All Social Security benefits and Supplemental Security Income benefits, and up to**
3 **\$7,500 in** exempt wages, [*Social Security benefits (other than SSI),*] **retirement benefits**, welfare,
4 unemployment benefits and disability benefits, **that are held in a bank account** [*when placed in a*
5 *checking or savings account (up to \$7,500)*].
- 6 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
7 for your support or the support of any of your dependents.
- 8 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
9 by your spouse, parent or child. The value of the homestead is exempt up to the following amounts:
10 (a) For a manufactured dwelling or floating home located on land that is not owned by you,
11 \$20,000. If you jointly own the manufactured dwelling or floating home with another person who is
12 also liable on the debt, \$27,000.
- 13 (b) For a manufactured dwelling or floating home located on land that is owned by you, \$23,000.
14 If you jointly own the manufactured dwelling or floating home with another person who is also liable
15 on the debt, \$30,000.
- 16 (c) For any other homestead, \$30,000. If you jointly own the homestead with another person who
17 is also liable on the debt, \$39,600.
- 18 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
19 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
20 another homestead.
- 21 (12) Household goods, furniture, radios, a television set and utensils with a combined value not
22 to exceed \$3,000.
- 23 *(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$2,150.
- 24 *(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your
25 occupation, with a combined value not to exceed \$3,000.
- 26 *(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 27 *(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed
28 \$1,800.
- 29 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000
30 and their food for 60 days.
- 31 (18) Provisions and fuel for your family for 60 days.
- 32 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt
33 may not exceed \$1,000.
- 34 (20) Public or private pensions.
- 35 (21) Veterans' benefits and loans.
- 36 (22) Medical assistance benefits.
- 37 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 38 (24) Cash surrender value of life insurance policies not payable to your estate.
- 39 (25) Federal annuities.
- 40 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
41 emption as wages).
- 42 (27) Professionally prescribed health aids for you or any of your dependents.
- 43 *(28) Elderly rental assistance allowed pursuant to ORS 310.635.
- 44 *(29) Your right to receive, or property traceable to:
45 *(a) An award under any crime victim reparation law.

