

SENATE AMENDMENTS TO SENATE BILL 731

By COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

April 29

- 1 On page 1 of the printed bill, line 2, delete “18.345,”.
- 2 Delete lines 9 through 16 and insert:
- 3 “**SECTION 2.** (1) If a writ of garnishment is delivered to a financial institution that has an ac-
- 4 count of the debtor, and one or more payments described in subsection (2) of this section were de-
- 5 posited in the account by direct deposit or electronic payment during the calendar month that
- 6 preceded the month in which the writ of garnishment is delivered to the financial institution, an
- 7 amount equal to the lesser of the sum of those payments or the total balance in the debtor’s account
- 8 is not subject to garnishment.
- 9 “(2) The provisions of this section apply only to:”.
- 10 In line 17, after “plan” insert “as defined in ORS 18.358”.
- 11 In line 21, after “benefits” insert “payments”.
- 12 After line 23, insert:
- 13 “(3) The provisions of this section apply only to:
- 14 “(a) Payments that a financial institution can readily identify as being one of the types of pay-
- 15 ments described in subsection (2) of this section; or
- 16 “(b) Payments for which the debtor has given a financial institution written notification under
- 17 subsection (4) of this section.
- 18 “(4)(a) At the time a person opens a new account with a financial institution in this state, the
- 19 financial institution may require that the person sign an affidavit indicating whether the person is
- 20 receiving any of the payments described in subsection (2) of this section that will be deposited in
- 21 the account by direct deposit or electronic payment.
- 22 “(b) A financial institution in this state shall make available a form of affidavit that a person
- 23 may use when opening an account, or may use at any time while the account is open, to indicate
- 24 that the person is receiving any of the payments described in subsection (2) of this section that will
- 25 be deposited in the account by direct deposit or electronic payment.
- 26 “(c) Without regard to whether an affidavit has been signed under this subsection, payments that
- 27 are subject to subsection (1) of this section and that can be readily identified by the financial in-
- 28 stitution as one of the types of payments described in subsection (2) of this section are not subject
- 29 to garnishment.
- 30 “(5) A financial institution is not liable to any person for any determination made in good faith,
- 31 as defined in ORS 73.0103, with respect to whether amounts are subject to garnishment under this
- 32 section.”.
- 33 In line 24, delete “(3)” and insert “(6)”.
- 34 On page 2, delete lines 13 and 14 and insert:
- 35 “(G) Amounts in an account in a financial institution that are not subject to garnishment under

1 section 2 of this 2009 Act.”.

2 On page 3, delete lines 11 through 45.

3 On page 4, delete lines 1 through 29.

4 Delete lines 33 through 45 and insert:

5 “**SECTION 5.** ORS 18.790 is amended to read:

6 “18.790. (1) Except as provided in subsection [(2)] (4) of this section, [*the garnishor must pay a*
7 *\$10 search fee*] at the time of delivery of any writ of garnishment on a financial institution[,] or at
8 the time a notice of garnishment is delivered to the financial institution under ORS 18.854:

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

11 “(b) **A search fee of \$15 must be paid to the financial institution if the garnishor is a**
12 **person other than the department.**

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

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

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

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

18 “[2)] (4) The search fee [*provided for in*] **required under** this section need not be paid to a fi-
19 nancial institution if the debtor is an employee of the financial institution.

20 “[3)] (5) Notwithstanding subsection (1) of this section, a financial institution may enter into
21 an agreement with any state agency authorized to garnish pursuant to ORS 18.645 or 18.854 for
22 periodic billing and payment of garnishee search fees required under this section.

23 “[4)] (6) The right of a financial institution to receive the search fee [*provided for in*] **required**
24 **under** this section does not in any way restrict or impair the right of the financial institution to
25 charge and collect an additional garnishment processing fee from any debtor whose property the
26 financial institution holds, or to whom the financial institution owes money. However, a financial
27 institution may not charge or collect a garnishment processing fee in violation of ORS 652.610. If a
28 financial institution charges a garnishment processing fee, the financial institution may collect the
29 fee by deducting the amount of the fee from any amount that the financial institution owes to the
30 debtor.

31 “(7) **A financial institution may not charge or collect a garnishment processing fee under**
32 **subsection (6) of this section for a writ of garnishment if none of the debtor’s property held**
33 **by the financial institution is subject to garnishment.”.**

34 On page 5, delete lines 1 through 10.

35 In line 14, delete “7” and insert “6”.

36 In line 34, delete “8” and insert “7”.

37 On page 6, line 36, delete “9” and insert “8”.

38 On page 10, line 44, delete “10” and insert “9”.

39 On page 17, delete lines 42 through 45 and insert:

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

- 1 On page 18, line 5, after “benefits” insert “payments”.
- 2 In line 26, delete “11” and insert “10”.
- 3 On page 19, line 14, delete “should” and insert “may”.
- 4 On page 20, line 17, restore “\$400” and delete “\$1,000”.
- 5 On page 21, line 27, delete “12” and insert “11”.
- 6 On page 24, line 41, restore “\$400” and delete “\$1,000”.
- 7 On page 25, line 14, delete “13” and insert “12” and delete “18.345,”.
- 8 In line 15, delete “12” and insert “11”.
- 9 In line 21, delete “14” and insert “13”.
- 10 _____