

Enrolled Senate Bill 93

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CHAPTER

AN ACT

Relating to collection of delinquent accounts; creating new provisions; amending ORS 1.198 and 1.202; and declaring an emergency.

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

SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS 1.194 to 1.200.

SECTION 2. The State Court Administrator may enter into an intergovernmental agreement with the United States Financial Management Service and the Internal Revenue Service for the purpose of the reciprocal offsetting of the following amounts:

- (1) Federal tax refunds of debtors, to be offset against liquidated and delinquent accounts of those debtors resulting from unpaid financial obligations imposed by state courts; and**
- (2) Overpayments to state courts, to be offset against federal tax obligations.**

SECTION 3. ORS 1.198 is amended to read:

1.198. (1) ORS 1.197 does not apply to liquidated and delinquent accounts that are:

- (a) Prohibited by state or federal law or regulation from assignment or collection; or**
- (b) Subject to collection through an offset of federal tax refunds pursuant to an agreement entered into under section 2 of this 2009 Act.**

(2) Notwithstanding ORS 1.197, a state court or a commission, department or division in the judicial branch of state government, acting in its sole discretion, may choose not to offer a liquidated and delinquent account to a private collection agency or to the Department of Revenue if the account:

- (a) Is secured by a consensual security interest in real or personal property;
- (b) Is based on that part of a judgment that requires payment of restitution or a payment to the Crime Victims' Assistance section of the Criminal Justice Division of the Department of Justice;
- (c) Is in litigation, mediation or arbitration or is subject to a stay in bankruptcy proceedings;
- (d) Is owed by a local or state government or by the federal government;
- (e) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who is on public assistance as defined in ORS 411.010;
- (f) Consists of moneys for which a district attorney has assumed collection responsibility under ORS 8.680;
- (g) Consists of moneys owed by a person who is incarcerated;

(h) Is an account that was previously offered to a private collection agency and was refused, or that was previously assigned to a private collection agency and the agency thereafter relinquished the account;

(i) Is less than \$100, including penalties; or

(j) Would result in loss of federal funding if assigned.

SECTION 4. ORS 1.202 is amended to read:

1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions [of] **in** the judicial branch of state government, shall add a fee of not less than \$50 and not more than \$100 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall [be added to] cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions [of] **in** the judicial branch of state government, that use **private collection agencies**, the Department of Revenue [or *private collection agencies*] **or an offset of federal tax refunds pursuant to an agreement entered into under section 2 of this 2009 Act** shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. [*The fee shall be added*] **A fee** to cover the costs of collection charged by **the private collection agency**, the Department of Revenue, **the United States Financial Management Service or the Internal Revenue Service** [or *private collection agency and*] shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collection charged by **the private collection agency**, the Department of Revenue, **the United States Financial Management Service or the Internal Revenue Service.** [or *private collection agency.*] Fees under this subsection shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

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

SECTION 4a. If Senate Bill 270 becomes law, section 4 of this 2009 Act (amending ORS 1.202) is repealed and ORS 1.202, as amended by section 3, chapter __, Oregon Laws 2009 (Enrolled Senate Bill 270), is amended to read:

1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions [of] **in** the judicial branch of state government, shall add a fee of not less than \$50 and not more than \$100 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall [be added to] cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions [of] **in** the judicial branch of state government, that use **private collection agencies**, the Department of Revenue [or *private collection agencies*] **or an offset of federal tax refunds pursuant to an agreement entered into under section 2 of this 2009 Act** shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. [*The fee shall be added*] **A fee** to cover the costs of collecting judgments referred to **the private collection agency**, the Department of Revenue, **the United States Financial Management Service or the Internal Revenue Service** [or *private collection agency and*] shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collecting

the judgment. Fees under this subsection shall be deposited in the Judicial Department Collections Account established under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

(3) The Chief Justice of the Supreme Court may authorize courts to waive or suspend the fees required to be added to judgments under this section. Except to the extent authorized by the Chief Justice, a court may not waive or suspend the fees required to be added to judgments under this section.

SECTION 5. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.

Passed by Senate June 12, 2009

Received by Governor:

Repassed by Senate June 29, 2009

.....M,....., 2009

Approved:

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Secretary of Senate

.....M,....., 2009

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President of Senate

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Governor

Passed by House June 29, 2009

Filed in Office of Secretary of State:

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Speaker of House

.....M,....., 2009

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Secretary of State