

A-Engrossed
Senate Bill 93

Ordered by the Senate June 11
Including Senate Amendments dated June 11

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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.

Allows State Court Administrator to enter into intergovernmental agreement with United States Financial Management Service and Internal Revenue Service for purpose of offsetting federal tax refunds *[to collect liquidated and delinquent accounts of state courts and commissions, departments and divisions in judicial branch]* **of debtors against liquidated and delinquent accounts of those debtors that result from unpaid financial obligations imposed by state courts and for purpose of offsetting overpayments to state courts against federal tax obligations.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to collection of delinquent accounts; creating new provisions; amending ORS 1.198 and
3 1.202; and declaring an emergency.

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

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

6 **SECTION 2. The State Court Administrator may enter into an intergovernmental agree-**
7 **ment with the United States Financial Management Service and the Internal Revenue Ser-**
8 **vice for the purpose of the reciprocal offsetting of the following amounts:**

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

11 (2) **Overpayments to state courts, to be offset against federal tax obligations.**

12 **SECTION 3. ORS 1.198 is amended to read:**

13 1.198. (1) ORS 1.197 does not apply to liquidated and delinquent accounts that are:

14 (a) Prohibited by state or federal law or regulation from assignment or collection; **or**

15 (b) **Subject to collection through an offset of federal tax refunds pursuant to an agree-**
16 **ment entered into under section 2 of this 2009 Act.**

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

21 (a) Is secured by a consensual security interest in real or personal property;

22 (b) Is based on that part of a judgment that requires payment of restitution or a payment to the
23 Crime Victims' Assistance section of the Criminal Justice Division of the Department of Justice;

24 (c) Is in litigation, mediation or arbitration or is subject to a stay in bankruptcy proceedings;

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 (d) Is owed by a local or state government or by the federal government;

2 (e) Is owed by a debtor who is hospitalized in a state hospital as defined in ORS 162.135 or who
3 is on public assistance as defined in ORS 411.010;

4 (f) Consists of moneys for which a district attorney has assumed collection responsibility under
5 ORS 8.680;

6 (g) Consists of moneys owed by a person who is incarcerated;

7 (h) Is an account that was previously offered to a private collection agency and was refused,
8 or that was previously assigned to a private collection agency and the agency thereafter relin-
9 quished the account;

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

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

12 **SECTION 4.** ORS 1.202 is amended to read:

13 1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments
14 and divisions [of] **in** the judicial branch of state government, shall add a fee of not less than \$50 and
15 not more than \$100 to any judgment that includes a monetary obligation that the court or judicial
16 branch is charged with collecting. The fee shall [be added to] cover the cost of establishing and
17 administering an account for the debtor and shall be added without further notice to the debtor or
18 further order of the court. The fee shall be added only if the court gives the defendant a period of
19 time in which to pay the obligation after the financial obligation is imposed. Fees under this sub-
20 section shall be deposited in the General Fund.

21 (2) All circuit courts and appellate courts of this state, and all commissions, departments and
22 divisions [of] **in** the judicial branch of state government, that use **private collection agencies**, the
23 Department of Revenue [or *private collection agencies*] **or an offset of federal tax refunds pursu-**
24 **ant to an agreement entered into under section 2 of this 2009 Act** shall add a fee to any judg-
25 ment referred for collection that includes a monetary obligation that the state court or the
26 commission, department or division is charged with collecting. [The fee shall be added] **A fee** to
27 cover the costs of collection charged by **the private collection agency**, the Department of
28 Revenue, **the United States Financial Management Service or the Internal Revenue Service**
29 [or *private collection agency and*] shall be added to the monetary obligation without further notice
30 to the debtor or further order of the court. The fee may not exceed the actual costs of collection
31 charged by **the private collection agency**, the Department of Revenue, **the United States Fi-**
32 **ancial Management Service or the Internal Revenue Service.** [or *private collection agency.*]
33 Fees under this subsection shall be deposited in the Judicial Department Collections Account es-
34 tablished under ORS 1.204 and may be used only for the purposes specified in ORS 1.204.

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

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