

(Including Amendments to Resolve Conflicts)

B-Engrossed Senate Bill 93

Ordered by the House June 26
Including Senate Amendments dated June 11 and House Amendments
dated June 26

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Public Safety Standards and Training)

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 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;

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

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

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

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

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

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

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

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

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

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

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

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

38 **SECTION 4a.** If Senate Bill 270 becomes law, section 4 of this 2009 Act (amending ORS
39 1.202) is repealed and ORS 1.202, as amended by section 3, chapter ___, Oregon Laws 2009
40 (Enrolled Senate Bill 270), is amended to read:

41 1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments
42 and divisions [of] **in** the judicial branch of state government, shall add a fee of not less than \$50 and
43 not more than \$100 to any judgment that includes a monetary obligation that the court or judicial
44 branch is charged with collecting. The fee shall [be added to] cover the cost of establishing and
45 administering an account for the debtor and shall be added without further notice to the debtor or

1 further order of the court. The fee shall be added only if the court gives the defendant a period of
2 time in which to pay the obligation after the financial obligation is imposed. Fees under this sub-
3 section shall be deposited in the General Fund.

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

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

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

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