

House Bill 2593

Sponsored by Representative SCHAUFLEER (Presession filed.)

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 **as introduced**.

Provides that not less than \$150 in debtor's account is not subject to garnishment.

A BILL FOR AN ACT

Relating to garnishment; creating new provisions; and amending ORS 18.619.

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

SECTION 1. ORS 18.619 is amended to read:

18.619. (1) **If a writ of garnishment is delivered to a financial institution that has an account of the debtor, the greater of \$150, or the amount described in subsection (2) of this section, is not subject to garnishment.**

[(1)] (2) 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)] (3) 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)] (3) The provisions of **subsection (2) 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;
- (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.

[(3)] (4) The provisions of **subsection (2) of this section** apply only to:

(a) A payment that a financial institution can identify as being one of the types of payments described in subsection [(2)] (3) of this section from information transmitted to the financial institution by the payor; or

(b) Payments for which the debtor has given a financial institution written notification under subsection [(4)] (5) of this section.

[(4)(a)] (5)(a) At the time a person opens a new account with a financial institution in this state, the financial institution may require that the person sign an affidavit indicating whether the person is receiving any of the payments described in subsection [(2)] (3) of this section that will be deposited in the account by direct deposit or electronic payment.

(b) A financial institution in this state shall make available a form of affidavit that a person

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 may use when opening an account, or may use at any time while the account is open, to indicate
2 that the person is receiving any of the payments described in subsection [(2)] (3) of this section that
3 will be deposited in the account by direct deposit or electronic payment.

4 (c) Without regard to whether an affidavit has been signed under this subsection, payments that
5 are subject to subsection [(1)] (2) of this section and that can be readily identified by the financial
6 institution as one of the types of payments described in subsection [(2)] (3) of this section are not
7 subject to garnishment.

8 [(5)] (6) A financial institution is not liable to any person for any determination made in good
9 faith, as defined in ORS 73.0103, with respect to whether amounts are subject to garnishment under
10 **subsection (2) of this section.**

11 [(6)] (7) The provisions of this section do not affect the ability of a debtor to claim any ex-
12 emption that otherwise may be available to the debtor under law for any amounts in an account in
13 a financial institution in excess of the amount specified in subsection [(1)] (2) of this section.

14 **SECTION 2. The amendments to ORS 18.619 by section 1 of this 2011 Act apply only to**
15 **writs of garnishment issued on or after the effective date of this 2011 Act.**

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