

Enrolled
House Bill 2667

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

CHAPTER

AN ACT

Relating to courts; creating new provisions; amending ORS 18.075, 21.110, 21.125 and 105.113 and ORCP 7 C; and declaring an emergency.

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

SECTION 1. ORS 18.075 is amended to read:

18.075. (1) A judgment is entered in circuit court when a court administrator notes in the register that a judgment document has been filed with the court administrator.

(2) Subject to ORS 18.058 (2), when a judge files a judgment document with the court administrator, the court administrator shall note in the register:

(a) That the judgment document has been filed and the day, hour and minute that the judgment is entered.

(b) Whether the judgment is a limited judgment, a general judgment or a supplemental judgment.

(c) Whether the judgment includes a money award.

(d) Whether the judgment creates a judgment lien under ORS 18.150.

(3) If the court administrator notes in the register that a judgment creates a judgment lien, the court administrator shall note in a judgment lien record maintained by the court administrator:

(a) The name of all judgment debtors.

(b) The name of all judgment creditors.

(c) The amount of the money award.

(d) Whether the money award includes a support award or an award of restitution.

(4) If the court administrator makes a notation of judgment in the judgment lien record, the court administrator shall thereafter also note in the judgment lien record:

(a) The date on which any appeal is filed.

(b) Whether a supersedeas undertaking, as defined in ORS 19.005, is filed.

(c) The date of any decision on appeal.

(d) Any execution issued by the court and the return on any execution.

(e) Any satisfaction of the judgment, when entered.

(f) Other such information as may be deemed necessary by court order or court rule.

(5) The court administrator shall enter a judgment in the register within 24 hours after the judgment document is filed with court administrator, excluding Saturdays and legal holidays. If the court administrator is not able to enter the judgment within the time prescribed in this subsection, or fails to do so, the court administrator shall enter the judgment as soon as practicable thereafter.

(6) Except as provided in ORS 18.058, [*and in ORCP 69 B(1) for judgments by default,*] the court administrator shall be subject to the direction of the court in entering judgments in the register.

(7) The court administrator shall not delay entry of judgment under ORCP 68 for taxation of attorney fees or costs and disbursements.

(8) Administrative orders entered in the register under ORS 416.440 have the effect provided for in that section.

(9) The State Court Administrator shall ensure that the register and the judgment lien record be established and maintained in a uniform manner in the circuit courts.

(10) References in Oregon Revised Statutes to docketing of a judgment are equivalent to entry of a judgment as described in subsection (1) of this section.

(11) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

SECTION 2. ORS 21.125 is amended to read:

21.125. (1) In any action, suit or proceeding subject to a fee under ORS 21.110, or in any civil appeal or petition subject to a fee under ORS 21.010, the Chief Justice of the Supreme Court may require that a \$50 fee be paid at the time of filing a motion identified by the Chief Justice as being subject to a fee under this section. If the Chief Justice has identified a motion as being subject to a fee under this section, the responding party must file a fee of \$35 upon the filing of a response to the motion. The Chief Justice by order shall identify motions that are subject to fees under this section.

(2) The fees provided for in this section may not be collected from the state, a county, a city or a school district.

(3) The fees provided for in this section may not be collected for motions for judgment by voluntary dismissal under ORCP 54 A(1), for motions for judgment by written stipulation under ORCP 67 F or for motions for entry of default judgment under ORCP 69 [B(1)].

(4) The fees provided for in this section may not be collected for motions made to an arbitrator or mediator in an arbitration or mediation required or offered by a court, or to any motion relating to an arbitration or mediation required or offered by a court.

(5) The clerk shall file a motion or response that is subject to a fee under this section only if the fee required by this section is paid when the motion or response is submitted for filing.

SECTION 3. ORCP 7 C is amended to read:

C(1) Contents. The summons shall contain:

C(1)(a) Title. The title of the cause, specifying the name of the court in which the complaint is filed and the names of the parties to the action.

C(1)(b) Direction to defendant. A direction to the defendant requiring defendant to appear and defend within the time required by subsection (2) of this section and a notification to defendant that in case of failure to do so, the plaintiff will apply to the court for the relief demanded in the complaint.

C(1)(c) Subscription; post office address. A subscription by the plaintiff or by an active member of the Oregon State Bar, with the addition of the post office address at which papers in the action may be served by mail.

C(2) Time for response. If the summons is served by any manner other than publication, the defendant shall appear and defend within 30 days from the date of service. If the summons is served by publication pursuant to subsection D(6) of this rule, the defendant shall appear and defend within 30 days from the date stated in the summons. The date so stated in the summons shall be the date of the first publication.

C(3) Notice to party served.

C(3)(a) In general. All summonses, other than a summons referred to in paragraph (b) or (c) of this subsection, shall contain a notice printed in type size equal to at least 8-point type which may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS

CAREFULLY

You must “appear” in this case or the other side will win automatically. To “appear” you must file with the court a legal document called a “motion” or “answer.” The “motion” or “answer” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff’s attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may [call] **contact** the Oregon State Bar’s Lawyer Referral Service [at] **online at www.oregonstatebar.org or by calling** (503) 684-3763 **(in the Portland metropolitan area)** or toll-free **elsewhere** in Oregon at (800) 452-7636.

C(3)(b) Service for counterclaim. A summons to join a party to respond to a counterclaim pursuant to Rule 22 D (1) shall contain a notice printed in type size equal to at least 8-point type which may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS
CAREFULLY

You must “appear” to protect your rights in this matter. To “appear” you must file with the court a legal document called a “motion” or “reply.” The “motion” or “reply” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the defendant’s attorney or, if the defendant does not have an attorney, proof of service on the defendant.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may [call] **contact** the Oregon State Bar’s Lawyer Referral Service [at] **online at www.oregonstatebar.org or by calling** (503) 684-3763 **(in the Portland metropolitan area)** or toll-free **elsewhere** in Oregon at (800) 452-7636.

C(3)(c) Service on persons liable for attorney fees. A summons to join a party pursuant to Rule 22 D(2) shall contain a notice printed in type size equal to at least 8-point type which may be substantially in the following form:

NOTICE TO DEFENDANT:
READ THESE PAPERS
CAREFULLY

You may be liable for attorney fees in this case. Should plaintiff in this case not prevail, a judgment for reasonable attorney fees will be entered against you, as provided by the agreement to which defendant alleges you are a party.

You must “appear” to protect your rights in this matter. To “appear” you must file with the court a legal document called a “motion” or “reply.” The “motion” or “reply” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the defendant’s attorney or, if the defendant does not have an attorney, proof of service on the defendant.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may [call] **contact** the Oregon State Bar’s Lawyer Referral Service [at] **online at www.oregonstatebar.org or by calling** (503) 684-3763 **(in the Portland metropolitan area)** or toll-free **elsewhere** in Oregon at (800) 452-7636.

SECTION 4. ORS 105.113 is amended to read:

105.113. Notwithstanding ORCP 7 C, for premises to which ORS chapter 90 or ORS 91.120 applies, the summons must be in substantially the following form and be available from the court clerk:

IN THE CIRCUIT COURT
FOR THE COUNTY OF

No. _____

SUMMONS
RESIDENTIAL EVICTION

PLAINTIFF (Landlord or agent):

vs.

DEFENDANT (Tenants/Occupants):

TO: _____ (Street address and city of property occupied by defendant)
_____ (Mailing address if different)

NOTICE TO TENANTS:
READ THESE PAPERS CAREFULLY
YOUR LANDLORD WANTS TO
EVICT YOU

ON _____, 2_____ AT _____ A.M./P.M., you must come to the County Court House located at _____. You do not have to pay any fees to the court for this first hearing.

- If you do not appear in court and your landlord does, your landlord will win automatically and can have the Sheriff physically remove you.

- If you do show up in court and your landlord does not, this eviction action will be dropped.

- If both of you show up:

- The judge may ask you to try to reach an agreement with your landlord, but this is voluntary. Trained mediators may be available free of charge to help resolve disputes.

- The court will schedule a trial if you and your landlord do not reach an agreement or if you do not agree to move out.

IF YOU WANT A TRIAL, YOU MUST:

- Show up in court at the time scheduled above;
- On the same day, file an Answer with the Court giving a legal reason why you should not be evicted (the Court can give you a form);
- Give a copy of the Answer to your landlord (or your landlord's agent or attorney); and
- Pay a filing fee of \$_____ (the judge may allow payment to be deferred in certain circumstances).

IF YOU HAVE QUESTIONS, YOU SHOULD SEE AN ATTORNEY IMMEDIATELY. If you need help finding an attorney, you can [call] **contact** the Oregon State Bar's Lawyer Referral Service [at] **online at www.oregonstatebar.org or by calling 503-684-3763 (in the Portland metropolitan area) or toll-free elsewhere** in Oregon at 800-452-7636.

Signature of Plaintiff (landlord or agent)

Plaintiff's address:

Plaintiff's telephone number: _____

I certify that this is a true copy of the original summons:

Signature of Plaintiff (landlord or agent)

SECTION 5. ORS 21.110, as amended by section 16, chapter 659, Oregon Laws 2009, section 37c, chapter 885, Oregon Laws 2009, and section 29, chapter 107, Oregon Laws 2010, is amended to read:

21.110. (1) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect a fee of \$78 from the party filing the pleading or motion if the amount claimed or in controversy does not exceed \$10,000, without regard to the number of parties named in the pleading or motion. The clerk shall collect the same fee for each answer or other first appearance filed in the action or proceeding.

(2)(a) Except as otherwise provided by law, at the time of filing of a complaint or other pleading or motion in the circuit court for the purpose of commencing an action or other civil proceeding, the clerk of the circuit court shall collect the following fees:

(A) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(B) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225 for each named plaintiff, appellant or moving party.

In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$225 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(C) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$275 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(D) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$325 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(E) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$375 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) If at any time a plaintiff, appellant or moving party files an amended pleading that names one or more additional parties to a proceeding subject to a fee under paragraph (a) of this subsection, the clerk of the circuit court shall collect an additional fee that is equal to the difference between the fee that was paid and the fee that would have been collected under paragraph (a) of this subsection if the party or parties had been named in the original pleading.

(3) Except as otherwise provided by law, at the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under subsection (2) of this section, the clerk shall collect the following fees:

(a) If the amount claimed or in controversy is more than \$10,000, and less than \$50,000, the clerk of the circuit court shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

(b) If the amount claimed or in controversy is \$50,000 or more, and less than \$150,000, the clerk of the circuit court shall collect a fee of \$225. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$225 for each of those defendants or respondents.

(c) If the amount claimed or in controversy is \$150,000 or more, and less than \$500,000, the clerk of the circuit court shall collect a fee of \$275. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$275 for each of those defendants or respondents.

(d) If the amount claimed or in controversy is \$500,000 or more, and less than \$1 million, the clerk of the circuit court shall collect a fee of \$325. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$325 for each of those defendants or respondents.

(e) If the amount claimed or in controversy is \$1 million or more, the clerk of the circuit court shall collect a fee of \$375. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$375 for each of those defendants or respondents.

(4) The Chief Justice of the Supreme Court by order may provide for exemptions from the fees established under subsections (2) and (3) of this section if exemptions are needed for the equitable imposition of those fees.

(5) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.823 or 181.826, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(6)(a) Except as otherwise provided by law, at the time of filing in the circuit court of a complaint or other pleading or motion for the purpose of commencing an action or other civil proceed-

ing, including an appeal, that is not subject to a fee under subsections (1) to (5) of this section, the clerk of the circuit court shall collect a fee of \$117 for each named plaintiff, appellant or moving party. In addition, if more than one defendant or respondent is named the clerk shall collect a fee of \$117 apiece for the second, third and subsequent defendants or respondents named in the pleading.

(b) At the time of filing in the circuit court of an answer or other first appearance in a proceeding subject to a fee under paragraph (a) of this subsection, the clerk shall collect a fee of \$117. If a first appearance is filed jointly for more than one defendant or respondent, the clerk shall collect a fee of \$117 for each of those defendants or respondents.

(c) The provisions of subsections (1) to (5) of this section, and of paragraphs (a) and (b) of this subsection, do not apply to a declaratory judgment action. At the time of filing in the circuit court of a complaint or other pleading for the purpose of commencing a declaratory judgment action, the clerk of the circuit court shall collect a filing fee of \$117 from the plaintiff. At the time of filing in the circuit court of an answer or other first appearance in the proceeding, the clerk shall collect a filing fee of \$117.

(7) For purposes of this section, the amount claimed or in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(8) For purposes of this section, the amount in controversy in an action or other proceeding includes:

(a) The value of property claimed in actions for the recovery of specific personal property, and the damages for the detention of the property.

(b) Any penalty or forfeiture provided by statute or arising out of contract.

(c) The amount claimed for a lien on personal property in an action to enforce or foreclose the lien.

(d) The money, or the value of property, deposited or secured in an interpleader action.

(9) A pleading or other document shall be filed by the clerk only if the fee required under this section is paid by the person filing the document, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(10) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsections (1) to (3) of this section must include in the caption of the pleading a statement of the amount claimed.

(11) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

(c) Filiation proceedings under ORS 109.124 to 109.230;

(d) Proceedings to determine custody or support of a child under ORS 109.103;

(e) Probate, adoption or change of name proceedings;

(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(12) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

SECTION 6. ORS 21.110, as amended by section 16, chapter 659, Oregon Laws 2009, section 37c, chapter 885, Oregon Laws 2009, and sections 29 and 31, chapter 107, Oregon Laws 2010, is amended to read:

21.110. (1) Except as otherwise provided in this section, at the time of filing in the circuit court of any civil action, suit or proceeding, including appeals, the clerk of the circuit court shall collect

from the plaintiff, appellant or moving party the sum of \$107 as a flat and uniform filing fee. In addition, at the time of filing any appearance in any such action, suit or proceeding by any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, the clerk shall collect from the party or parties the sum of \$107 as a flat and uniform filing fee. **The fee imposed under this subsection applies to declaratory judgment actions.**

(2) In the following actions, the clerk of the circuit court shall collect the sum of \$68 as a flat and uniform filing fee from the plaintiff, appellant or moving party at the time the action is filed, and shall collect the sum of \$68 as a flat and uniform filing fee from any defendant or respondent appearing separately, or upon the part of defendants or respondents appearing jointly, at the time of filing any appearance in the action:

(a) Actions for the recovery of money or damages only when the amount claimed does not exceed \$10,000.

(b) Actions for the recovery of specific personal property when the value of the property claimed and the damages for the detention do not exceed \$10,000.

(c) Actions for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$10,000.

(d) Actions to enforce, marshal and foreclose liens upon personal property where the amount claimed for such liens does not exceed \$10,000.

(e) Actions of interpleader, and in the nature of interpleader, when the amount of money or the value of the property involved does not exceed \$10,000.

(f) Actions for injunctive relief under ORS chapter 90 when the amount of any damages claimed does not exceed \$10,000.

(3) The clerk of the court shall collect the sum of \$300 as a flat and uniform filing fee from the petitioner in a proceeding under ORS 181.823 or 181.826, at the time the petition is filed. Fees collected under this subsection shall be deposited into the Judicial Department Operating Account established in ORS 1.009.

(4) For purposes of this section, the amount claimed, value of property, damages or any amount in controversy does not include any amount claimed as costs and disbursements or attorney fees as defined by ORCP 68 A.

(5) A pleading or other document shall be filed by the clerk only if the fee required under this section is paid by the person filing the document, or if a request for a fee waiver or deferral is granted by the court. No part of any such filing fee shall be refunded to any party. The uniform fee shall cover all services to be performed by the court or clerk in any such action, suit or proceeding, except where additional fees are specially authorized by law.

(6) Any plaintiff, appellant, moving party, defendant or respondent that files an action or appearance that is subject to the filing fees established under subsection (2) of this section must include in the caption of the pleading the following words: "Claim of not more than \$10,000."

(7) The fees imposed by this section do not apply to:

(a) Protective proceedings under ORS chapter 125;

(b) Proceedings for dissolution of marriage, annulment of marriage or separation;

(c) Filiation proceedings under ORS 109.124 to 109.230;

(d) Proceedings to determine custody or support of a child under ORS 109.103;

(e) Probate, adoption or change of name proceedings;

(f) Proceedings involving dwelling units to which ORS chapter 90 applies and for which the fee is provided by ORS 105.130; or

(g) Any counterclaim, cross-claim or third-party claim filed by a party who has appeared in the action or proceeding.

(8) The fees described in this section shall not be charged to a district attorney or to the Division of Child Support of the Department of Justice for the filing of any case, motion, document, stipulated order, process or other document relating to the provision of support enforcement services as described in ORS 25.080.

SECTION 7. The amendments to ORS 21.110 by section 5 of this 2011 Act apply to any declaratory judgment action filed on or after January 1, 2011, and before July 1, 2011. Upon request by any party that paid a filing fee or respondent's fee for a declaratory judgment action on or after January 1, 2011, and before the effective date of this 2011 Act, the clerk of the court in which the action was filed shall refund the amount of the filing fee paid by the party to the extent that the fee exceeds the filing fee under ORS 21.110, as amended by section 5 of this 2011 Act. A request under this section must be made not later than 60 days after the effective date of this 2011 Act.

SECTION 8. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House April 21, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 26, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

.....
John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

.....
Kate Brown, Secretary of State