

**Enrolled**  
**Senate Bill 43**

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CHAPTER .....

AN ACT

Relating to limits on collection of support obligations; creating new provisions; and amending ORS 18.345, 18.358, 18.845, 18.896, 25.414, 238.445, 656.234 and 657.855.

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

**SECTION 1.** ORS 25.414 is amended to read:

25.414. (1) The withholder shall withhold from the obligor's disposable monthly income, other than workers' compensation under ORS chapter 656 or unemployment compensation under ORS chapter 657, the amount stated in the order to withhold. The entity issuing the order to withhold shall compute this amount subject to the following:

(a) If withholding is for current support only, the amount to be withheld is the amount specified as current support in the support order.

(b) If withholding is for current support and there is an arrearage, the amount to be withheld is 120 percent of the amount specified as current support in the support order.

(c) If withholding is only for arrearage, the amount to be withheld is one of the following:

(A) The amount of the last ordered monthly support.

(B) If there is no last ordered monthly support amount, the monthly support amount used to calculate the arrearage amount specified in the order or judgment for arrearage.

(C) If there is no last ordered monthly support amount and if there was no monthly support amount, an amount calculated under the formula established under ORS 25.275. For purposes of this subparagraph, this calculation shall be based on the obligor's current monthly gross income or, if the obligor's current monthly gross income is not known, the Oregon hourly minimum wage converted to a monthly amount based upon a 40-hour workweek, zero income for the obligee, and one joint child, regardless of how many children the parties may actually have. No rebuttals to this calculation may be allowed.

(d) Notwithstanding the amount determined to be withheld under paragraph (c) of this subsection, the obligor must retain disposable monthly income of at least 160 times the applicable federal minimum hourly wage prescribed by section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) or any future minimum hourly wages prescribed in that section, **if the order to withhold is issued for:**

(A) **Disability benefits payments from the United States Social Security Administration;**

(B) **Black lung benefits payments from the United States Department of Labor; or**

(C) **Disability benefits payments from the United States Department of Veterans Affairs.**

(2) The amount to be withheld from unemployment compensation under ORS chapter 657 is calculated as follows:

(a) If withholding is for a current support order, regardless of the existence of arrearage, the amount to be withheld is the lesser of:

(A) Twenty-five percent of the benefits paid; or

(B) The current monthly support obligation. The entity issuing the order to withhold may convert the monthly support obligation amount to a percentage to be withheld from each benefits payment. [*However, the total amount withheld in one month may not exceed 25 percent of the benefits paid in that month or the current monthly support obligation, whichever is less.*]

(b) If withholding is for arrearage only, the amount to be withheld is the lesser of:

(A) Fifteen percent of the benefits paid; or

(B) The amount of the last ordered monthly support obligation. The entity issuing the order to withhold may convert the last ordered monthly support obligation amount to a percentage to be withheld from each benefits payment. [*However, the total amount withheld in one month may not exceed 15 percent of the benefits paid in that month or the amount of the last ordered monthly support obligation, whichever is less.*]

(c) The withholder may not charge or collect a processing fee when withholding from unemployment compensation.

(3) The amount to be withheld from workers' compensation under ORS chapter 656 is set forth in ORS 656.234.

(4) Notwithstanding any other provision of this section, when withholding is from a lump sum payment or benefit, including but not limited to retroactive workers' compensation benefits, lump sum retirement plan disbursements or withdrawals, insurance payments or settlements, severance pay, bonus payments or any other similar payments or benefits that are not periodic recurring income, the amount subject to withholding for payment of a support obligation may not exceed [*one-fourth*] **one-half** of the amount of the lump sum payment or benefit.

(5)(a) Notwithstanding any other provision of this section, **when the withholding is only for arrearage**, the administrator [*may*] **shall** set a lesser amount to be withheld if the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support **or the obligor's ability to provide for the obligor's basic needs. The factors to be considered by the administrator in determining whether the obligor can provide for the obligor's basic needs include but are not limited to:**

(A) **The health expenses of the obligor;**

(B) **A verified disability affecting the obligor's ability to work;**

(C) **Whether the obligor's income remaining after withholding would be less than the self-support reserve established by rule of the Department of Justice under paragraph (c) of this subsection;**

(D) **The available resources of the obligor; and**

(E) **The number and basic needs of other persons in the obligor's household.**

(b) **The administrator shall establish a procedure to give advance and periodic notice to the obligor of the provisions of paragraph (a) of this subsection and of the means to reduce the amount stated in the order to withhold.**

(c) **The Department of Justice shall adopt rules to implement this subsection.** [*The Department of Justice shall adopt rules consistent with federal regulations to implement this subsection.*]

(6) Except as provided in subsection (2) of this section, the withholder may deduct from the obligor's disposable income a monthly processing fee not to exceed \$5. The processing fee is in addition to the amount calculated to be withheld for support, unless the amount to be withheld for support is the maximum allowed under subsection (8) of this section, in which case the fee is deducted from the amount withheld as support.

(7) If there are multiple withholding orders against the same obligor, the amount to be withheld is the sum of each support order calculated independently.

(8) No withholding as calculated under this section, including the processing fee permitted in subsection (6) of this section, shall exceed 50 percent of the obligor's net disposable income. The limit established in this subsection applies whenever withholding is implemented under this section, whether by a single order or by multiple orders against the same obligor.

(9) When the obligor's income is not sufficient for the withholder to fully comply with each withholding order, the withholder shall withhold the maximum amount allowed under this section. If all withholding orders for a particular obligor are payable to or through the department, the withholder shall pay to the department the income withheld and the department shall determine priorities for allocating income withheld to multiple child support cases relative to that obligor. If one or more of the withholding orders for a particular obligor require payment other than to or through the department, the withholder shall use the following to determine priorities for withholding and allocating income withheld to multiple child support cases:

(a) If the amount withheld from the obligor's income is sufficient to pay the current support due to each case but is not enough to fully comply with the withholding order for each case where past due support is owed, the withholder shall:

(A) Pay to each case the amount of support due for the current month; and

(B) Pay the remainder of the amount withheld in equal amounts to each case where past due support is owed. However, no case shall receive more than the total amount of current support and past due support owed to that case at the time the payment is made.

(b) If the amount withheld is not sufficient to pay the current support due to each case, each case shall be paid a proportionate share of the amount withheld. The withholder shall determine this for each case by dividing the monthly amount ordered as current support for that case by the combined monthly amount ordered as current support for all cases relative to the same obligor, and multiplying this percentage by the total amount withheld.

(10) An order to withhold income is not subject to the limitations of ORS 18.385.

(11) A withholder shall withhold funds as directed in the order to withhold, except that when a withholder receives an income-withholding order issued by another state, the withholder shall apply the income-withholding law of the state of the obligor's principal place of employment in determining:

(a) The withholder's fee for processing an income-withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income;

(c) The time periods within which the withholder must implement the income-withholding order and forward the child support payment;

(d) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(e) Any withholding terms or conditions not specified in the order.

**SECTION 2.** ORS 656.234 is amended to read:

656.234. (1) No moneys payable under this chapter on account of injuries or death are subject to assignment prior to their receipt by the beneficiary entitled thereto, nor shall they pass by operation of law. All such moneys and the right to receive them are exempt from seizure on execution, attachment or garnishment, or by the process of any court.

(2) Notwithstanding any other provision of this section:

(a) Moneys payable under ORS 656.210 and 656.212 are subject to an order to enforce child support obligations, and spousal support when there is a current support obligation for a joint child of the obligated parent and the person to whom spousal support is owed, under ORS 25.378; and

(b) Moneys payable under ORS 656.206, 656.214, 656.236 and 656.289 (4) are subject to an order to enforce child support obligations under ORS 25.378.

(3) Notwithstanding the provisions of ORS 25.378 and 25.414, the amount of child support obligation subject to enforcement may not exceed:

(a) One-fourth of moneys paid under ORS 656.210 and 656.212 or the amount of the current support to be paid as continuing support, whichever is less, or, if there is no current support obli-

gation and the withholding is for arrearages only, 15 percent of the moneys paid under ORS 656.210 and 656.212 or the amount previously paid as current support, whichever is less;

(b) [One-fourth] **One-half** of moneys paid in a lump sum award under ORS 656.210 and 656.212 when the award becomes final by operation of law or waiver of the right to appeal its adequacy;

(c) [One-fourth] **One-half** of moneys paid under ORS 656.206, 656.214 and 656.236; or

(d) [One-fourth] **One-half** of the net proceeds paid to the worker in a disputed claim settlement under ORS 656.289 (4).

(4) Notwithstanding any other provision of this section, when withholding is only for arrearages assigned to this or another state, the Department of Justice may set a lesser amount to be withheld if the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support.

**SECTION 3.** ORS 657.855 is amended to read:

657.855. (1) Except as provided in this section, benefits due under this chapter may not be assigned, pledged, encumbered, released or commuted and shall, except as otherwise provided in this chapter, be exempt from all claims of creditors and from levy, execution and attachment or remedy for recovery or collection of a debt, which exemption may not be waived. No agreement by an individual to waive the individual's rights under this chapter is valid.

(2) The exemption from execution or other process granted under this section applies to only [75] **50** percent of benefits payable under this chapter if the execution or other process is issued for a child support obligation or an order or notice entered pursuant to ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C and the child support obligation or the order or notice is being enforced pursuant to a plan approved under Title IV-D of the Social Security Act.

**SECTION 4.** ORS 18.345 is amended to read:

18.345. (1) All property, including franchises, or rights or interest therein, of the judgment debtor, shall be liable to an execution, except as provided in this section and in other statutes granting exemptions from execution. The following property, or rights or interest therein of the judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

(a) Books, pictures and musical instruments to the value of \$600.

(b) Wearing apparel, jewelry and other personal items to the value of \$1,800.

(c) The tools, implements, apparatus, team, harness or library, necessary to enable the judgment debtor to carry on the trade, occupation or profession by which the judgment debtor habitually earns a living, to the value of \$3,000.

(d) A vehicle to the value of \$3,000. As used in this paragraph "vehicle" includes an automobile, truck, trailer, truck and trailer or other motor vehicle.

(e) Domestic animals and poultry kept for family use, to the total value of \$1,000 and food sufficient to support such animals and poultry for 60 days.

(f) Household goods, furniture, radios, a television set and utensils all to the total value of \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use of the judgment debtor; provisions actually provided for family use and necessary for the support of a householder and family for 60 days and also 60 days' supply of fuel.

(g) All property of the state or any county or incorporated city therein, or of any other public or municipal corporation of like character.

(h) All professionally prescribed health aids for the debtor or a dependent of the debtor.

(i) Spousal support, child support, or separate maintenance to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(j) The debtor's right to receive, or property that is traceable to, an award under any crime victim reparation law.

(k) The debtor's right to receive, or property that is traceable to, a payment or payments, not to exceed a total of \$10,000, on account of personal bodily injury of the debtor or an individual of whom the debtor is a dependent.

(L) The debtor's right to receive, or property that is traceable to, a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

(m) Veterans' benefits and loans.

(n) The debtor's right to receive an earned income tax credit under the federal tax laws and any moneys that are traceable to a payment of an earned income tax credit under the federal tax laws.

(o) The debtor's interest, not to exceed \$400 in value, in any personal property. However, this exemption may not be used to increase the amount of any other exemption.

(2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of which the execution issued to be of a value in excess of that allowed by the appropriate paragraph of subsection (1) of this section, the officer seizing the property shall proceed to sell such property. Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of subsection (1) of this section and shall apply the balance of the proceeds of sale on the execution. A sale may not be made under such execution unless the highest bid made exceeds the appropriate exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the judgment creditor.

(3) If two or more members of a household are joint judgment debtors, each judgment debtor shall be entitled to claim the exemptions in subsection (1)(a), (b), (c), (d) and (o) of this section in the same or different properties. The exemptions provided by subsection (1)(a), (b), (c), (d), (j), (k) and (o) of this section, when claimed for jointly owned property, may be combined at the option of the debtors.

(4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or other execution is issued to collect past due support as defined in ORS 18.600, [75] 50 percent of unemployment compensation benefits, workers' compensation benefits and other benefits paid to the debtor by the United States, by the state or by a political subdivision of the state are exempt. The exemption related to unemployment compensation benefits provided by this subsection is subject to ORS 657.855. The exemption provided by this subsection applies without regard to whether the payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made under a settlement or judgment on account of personal bodily injury and the garnishment or other execution is issued to collect past due support as defined in ORS 18.600, the lesser of [75] 50 percent of the payment or \$7,500 is exempt.

**SECTION 5.** ORS 18.358 is amended to read:

18.358. (1) As used in this section:

(a) "Beneficiary" means a person for whom retirement plan benefits are provided [and] **or** their spouse.

(b) "Internal Revenue Code" means the federal Internal Revenue Code as amended and in effect on December 31, 1998.

(c) "Permitted contribution" means:

(A) A contribution that, at the time of the contribution, is not taxable income to the beneficiary and, if the sponsor is a taxable entity, is tax deductible to the sponsor;

(B) A nondeductible contribution by a beneficiary to a retirement plan to the extent that the contribution is permitted to be made under the Internal Revenue Code;

(C) A deductible or nondeductible contribution to an individual retirement account to the extent the contribution is not subject to federal excise tax as an excess contribution;

(D) A contribution, pursuant to a rollover or transfer, from one retirement plan to another, to the extent the federal tax deferred status is preserved at such time;

(E) A rollover from an individual retirement account described in section 408 of the Internal Revenue Code to an individual retirement account described in section 408A of the Internal Revenue Code; and

(F) Any earnings under a retirement plan which are attributable to a contribution described in subparagraphs (A) to (E) of this paragraph.

(d) "Retirement plan" means:

(A) A pension plan and trust, including a profit sharing plan, that is described in sections 401(a), 401(c), 401(k), 403 and 457 of the Internal Revenue Code, including that portion attributable to contributions made by or attributable to a beneficiary;

(B) An individual retirement account or annuity, including one that is pursuant to a simplified employee pension, as described in section 408 or 408A of the Internal Revenue Code; and

(C) Any pension not described in subparagraphs (A) and (B) of this paragraph granted to any person in recognition or by reason of a period of employment by or service for the Government of the United States or any state or political subdivision of any state, or any municipality, person, partnership, association or corporation.

(e) "Sponsor" means an individual or entity which establishes a retirement plan.

(2) Subject to the limitations set forth in subsection (3) of this section, a retirement plan shall be conclusively presumed to be a valid spendthrift trust under these statutes and the common law of this state, whether or not the retirement plan is self-settled, and a beneficiary's interest in a retirement plan shall be exempt, effective without necessity of claim thereof, from execution and all other process, mesne or final.

(3) Notwithstanding subsection (2) of this section:

(a) A contribution to a retirement plan, other than a permitted contribution, shall be subject to ORS 95.200 to 95.310 concerning fraudulent transfers; and

(b) Unless otherwise ordered by a court under ORS 25.387, 75 percent of a beneficiary's interest in a retirement plan, **or 50 percent of a lump sum retirement plan disbursement or withdrawal**, shall be exempt from execution or other process arising out of a support obligation or an order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

**SECTION 6.** ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

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NOTICE OF EXEMPT PROPERTY  
AND INSTRUCTIONS FOR  
CHALLENGE TO GARNISHMENT

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

**YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.**

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

(1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:

(a) 75 percent of your take-home wages; or

(b) \$196 per workweek.

(2) Social Security benefits.

(3) Supplemental Security Income (SSI).

(4) Public assistance (welfare).

- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.
- (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment form if you claim this exemption.
- (9) Spousal support, child support or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.
- (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly own the homestead with another person who is also liable on the debt, up to \$50,000 of the value of the homestead is exempt.
- (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure another homestead.
- (12) Household goods, furniture, radios, a television set and utensils with a combined value not to exceed \$3,000.
- \*(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.
- \*(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.
- \*(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- \*(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed \$1,800.
- (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and their food for 60 days.
- (18) Provisions and fuel for your family for 60 days.
- (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.
- (20) Public or private pensions.
- (21) Veterans' benefits and loans.
- (22) Medical assistance benefits.
- (23) Health insurance proceeds and disability proceeds of life insurance policies.
- (24) Cash surrender value of life insurance policies not payable to your estate.
- (25) Federal annuities.
- (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).
- (27) Professionally prescribed health aids for you or any of your dependents.
- \*(28) Elderly rental assistance allowed pursuant to ORS 310.635.
- (29) Your right to receive, or property traceable to:
  - (a) An award under any crime victim reparation law.
  - (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.
  - (c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.
- (30) Amounts paid to you as an earned income tax credit under federal tax law.
- \*(31) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.
- (32) Equitable interests in property.
- (33) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

(34) If the amount shown as owing on the Debt Calculation form exceeds the amount you actually owe to the creditor, the difference between the amount owed and the amount shown on the Debt Calculation form.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by an asterisk (\*).

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**SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT.** Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only [75] **50** percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

**YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.** You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Garnishment form that you received with this notice.
- (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any other money or property is exempt, or claim that the property is not subject to garnishment, you must mail or deliver the form within 30 days after you receive this notice. You have the burden of showing that your challenge is made on time, so you should keep records showing when the challenge was mailed or delivered.
- (3) The law only requires that the Garnishor hold the garnished money or property for 10 days before applying it to the Creditor's use. You may be able to keep the property from being used by the Creditor by promptly following (1) and (2) above.

You should be prepared to explain your exemption in court. If you have any questions about the garnishment or the debt, you should see an attorney.

**YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOWING PURPOSES:**

- (1) To claim such exemptions from garnishment as are permitted by law.
- (2) To assert that property is not garnishable property under ORS 18.618.
- (3) To assert that the amount specified in the writ of garnishment as being subject to garnishment is greater than the total amount owed.

**YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE VALIDITY OF THE DEBT.**

**IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE.** Penalties that you could be subject to are listed in ORS 18.715.

When you file a Challenge to Garnishment form, the Garnishee may be required to make all payments under the garnishment to the court, and the Garnishor may be required to pay to the court all amounts received by the Garnishor that are subject to the challenge to the garnishment. The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of their responsibilities, see ORS 18.705 and 18.708.

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**SECTION 7.** ORS 18.896 is amended to read:



18.896. (1) The challenge to execution form described in this section does not expand or restrict the law relating to exempt property. A determination as to whether property is exempt from attachment or execution must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

(2) A challenge to execution form must be in substantially the following form:

\_\_\_\_\_ COURT  
COUNTY OF \_\_\_\_\_

\_\_\_\_\_  
Plaintiff, ) CHALLENGE TO  
                  ) EXECUTION  
                  ) vs. ) Case No. \_\_\_\_\_  
\_\_\_\_\_  
Defendant. )

THIS FORM MAY BE USED BY THE DEBTOR ONLY FOR THE FOLLOWING PURPOSES:

(1) To claim such exemptions from execution as are permitted by law.

(2) To assert that the amount specified in the writ of execution as being subject to execution is greater than the total amount owed.

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

I/We claim that the following described property or money is exempt from execution:

\_\_\_\_\_  
\_\_\_\_\_

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes most types of property that you can claim as exempt from execution):

\_\_\_\_\_  
\_\_\_\_\_

I am a person other than the Debtor and I have the following interest in the property:

\_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_ Name \_\_\_\_\_  
Signature \_\_\_\_\_ Signature \_\_\_\_\_  
Address \_\_\_\_\_ Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone  
Number \_\_\_\_\_  
(Required)

Telephone  
Number \_\_\_\_\_  
(Required)

**YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.**  
You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the Challenge to Execution form that you received with this notice.
- (2) Mail or deliver the Challenge to Execution form to the court administrator at the address shown on the writ of execution.
- (3) Mail or deliver a copy of the Challenge to Execution form to the judgment creditor at the address shown on the writ of execution.

You should be prepared to explain your exemption in court. If you have any questions about the execution or the debt, you should see an attorney.

**YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY FOR THE FOLLOWING PURPOSES:**

- (1) To claim such exemptions from execution as are permitted by law.
- (2) To assert that the amount specified in the writ of execution as being subject to execution is greater than the total amount owed.

**YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE VALIDITY OF THE DEBT.**

**IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE.** Penalties that you could be subject to are listed in ORS 18.899.

#### NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers are enclosed.

**YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.**

State and federal law specify that certain property may not be taken. Some of the property that you may be able to get back is listed below.

- (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following amounts is greater:
  - (a) 75 percent of your take-home wages; or
  - (b) \$196 per workweek.
- (2) Social Security benefits.
- (3) Supplemental Security Income (SSI).
- (4) Public assistance (welfare).
- (5) Unemployment benefits.
- (6) Disability benefits (other than SSI benefits).
- (7) Workers' compensation benefits.
- (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are held in a bank account.
- (9) Spousal support, child support or separate maintenance to the extent reasonably necessary for your support or the support of any of your dependents.

(10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly own the homestead with another person who is also liable on the debt, up to \$50,000 of the value of the homestead is exempt.

(11) Proceeds from the sale of a homestead described in item 10, up to the limits described in item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure another homestead.

(12) Household goods, furniture, radios, a television set and utensils with a combined value not to exceed \$3,000.

\*(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.

\*(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your occupation, with a combined value not to exceed \$3,000.

\*(15) Books, pictures and musical instruments with a combined value not to exceed \$600.

\*(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed \$1,800.

(17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and their food for 60 days.

(18) Provisions and fuel for your family for 60 days.

(19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.

(20) Public or private pensions.

(21) Veterans' benefits and loans.

(22) Medical assistance benefits.

(23) Health insurance proceeds and disability proceeds of life insurance policies.

(24) Cash surrender value of life insurance policies not payable to your estate.

(25) Federal annuities.

(26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same exemption as wages).

(27) Professionally prescribed health aids for you or any of your dependents.

\*(28) Elderly rental assistance allowed pursuant to ORS 310.635.

\*(29) Your right to receive, or property traceable to:

\*(a) An award under any crime victim reparation law.

\*(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily injury suffered by you or an individual of whom you are a dependent.

\*(c) A payment in compensation of loss of future earnings of you or an individual of whom you are or were a dependent, to the extent reasonably necessary for your support and the support of any of your dependents.

(30) Amounts paid to you as an earned income tax credit under federal tax law.

(31) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

(32) Equitable interests in property.

Note: If two or more people in your household owe the claim or judgment, each of them may claim the exemptions marked by an asterisk (\*).

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SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt may be taken to pay for overdue support. For instance, Social Security benefits, workers' compensation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but only [75] 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support obligation.

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**SECTION 8.** ORS 238.445 is amended to read:

238.445. (1) Except as provided in this section, the right of a person to a pension, an annuity or a retirement allowance, to the return of contribution, the pension, annuity or retirement allowance itself, any optional benefit or death benefit, or any other right accrued or accruing to any person under the provisions of this chapter or ORS chapter 238A, and the money in the various funds created by ORS 238.660 and 238.670, shall be exempt from garnishment and all state, county and municipal taxes heretofore or hereafter imposed, except as provided under ORS chapter 118, shall not be subject to execution, garnishment, attachment or any other process or to the operation of any bankruptcy or insolvency law heretofore or hereafter existing or enacted, and shall be un-assignable.

(2) Subsection (1) of this section does not apply to state personal income taxation of amounts paid under this chapter and ORS chapter 238A.

(3) Unless otherwise ordered by a court under ORS 25.387, the exemption from execution or other process granted under this section applies to [75] **50** percent of amounts paid under this chapter and ORS chapter 238A if the execution or other process is issued for a support obligation or an order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

**SECTION 9. The amendments to ORS 18.345, 18.358, 18.845, 18.896, 25.414, 238.445, 656.234 and 657.855 by sections 1 to 8 of this 2011 Act apply to actions taken to enforce support obligations on or after the effective date of this 2011 Act.**

**Passed by Senate March 17, 2011**

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Robert Taylor, Secretary of Senate  
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Peter Courtney, President of Senate

**Received by Governor:**

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

**Approved:**

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

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John Kitzhaber, Governor

**Passed by House May 31, 2011**

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Bruce Hanna, Speaker of House  
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Arnie Roblan, Speaker of House

**Filed in Office of Secretary of State:**

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

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Kate Brown, Secretary of State