

SENATE AMENDMENTS TO A-ENGROSSED SENATE BILL 926

By COMMITTEE ON RULES

May 17

1 On page 2 of the printed A-engrossed bill, line 25, after “(1)” insert “Except as provided in
2 subsection (6) of this section.”.

3 On page 3, delete lines 2 and 3 and insert:

4 “(c) Public assistance payments from the State of Oregon or an agency of the State of Oregon;

5 “(d) Unemployment compensation payments from the State of Oregon or an agency of the State
6 of Oregon;”.

7 After line 32, insert:

8 “(6) A financial institution may not conduct a garnishment account review under this section if
9 a Notice of Right to Garnish Federal Benefits from the United States Government or from a state
10 child support enforcement agency is attached to or included in the garnishment as provided in 31
11 C.F.R. part 212. If a Notice of Right to Garnish Federal Benefits is attached to or included in the
12 garnishment, the financial institution shall proceed on the garnishment as otherwise provided in
13 ORS 18.600 to 18.850.”.

14 In line 33, delete “(6)” and insert “(7)”.

15 Delete lines 36 through 45 and insert:

16 “**SECTION 3. Sections 4 to 6 of this 2011 Act are added to and made a part of ORS 18.600
17 to 18.850.**

18 “**SECTION 4. (1) Except as provided in this section, if a financial institution determines
19 from a garnishment account review conducted under ORS 18.619 (1) that one or more pay-
20 ments described in ORS 18.619 (3) have been deposited into the debtor’s account by direct
21 deposit or electronic payment during the lookback period described in ORS 18.619 (2), and
22 there is a positive balance in the account at the time the garnishment account review is
23 conducted, the financial institution shall:**

24 “(a) Immediately calculate and establish the amount in the debtor’s account that is not
25 subject to garnishment and ensure that the debtor has full customary access to that amount;
26 and

27 “(b) Issue a notice to the account holder in substantially the form set forth in section
28 10 of this 2011 Act.

29 “(2) A financial institution shall issue the notice required by this section directly to the
30 account holder or to a fiduciary who administers the account and receives communications
31 on behalf of the account holder.

32 “(3) The notice required by this section must be sent separately to the debtor and may
33 not be included with other materials being provided to the debtor by the financial institution
34 that do not relate to the garnishment.

35 “(4) The notice required by this section must be sent to the account holder within three

1 **business days after the financial institution completes the garnishment account review re-**
2 **quired by ORS 18.619 (1).**

3 **“(5) A financial institution shall perform the calculation described in subsection (1) of**
4 **this section for each account of the account holder. However, the financial institution may**
5 **issue a single notice under this section for multiple accounts of the same account holder.**

6 **“(6) Issuance of a notice under this section does not constitute the giving of legal advice**
7 **and a financial institution is not obligated to provide legal advice by reason of issuing a no-**
8 **tice required by this section.**

9 **“SECTION 5. A financial institution is not liable to any account holder, garnishor or**
10 **other financial institution, and may not be assessed any penalty, by reason of any action**
11 **taken by the financial institution in good faith under section 4 of this 2011 Act or ORS 18.619,**
12 **including:**

13 **“(1) Delivery or refusal to deliver any funds that are not subject to garnishment under**
14 **ORS 18.619 to a garnishor;**

15 **“(2) Providing the notice required by this section to an account holder;**

16 **“(3) Customary clearing and settlement adjustments made to a debtor’s account that**
17 **affect the balance in the debtor’s account; and**

18 **“(4) Any bona fide errors that occur under section 4 of this 2011 Act or ORS 18.619 de-**
19 **spite reasonable procedures implemented by the financial institution to prevent those errors.**

20 **“SECTION 6. A financial institution shall maintain records of account activity and**
21 **actions taken by the financial institution in response to a garnishment that are adequate to**
22 **demonstrate compliance with the requirements of section 4 of this 2011 Act and ORS 18.619**
23 **for a period of not less than two years after the financial institution receives the writ of**
24 **garnishment.”.**

25 On page 4, delete lines 1 through 34.

26 In line 35, delete “5” and insert “7”.

27 On page 5, line 25, delete “6” and insert “8”.

28 On page 12, after line 21, insert:

29 **“Unless a Notice of Right to Garnish Federal Benefits from the United States Government or**
30 **from a state child support enforcement agency is attached to or included in the garnishment, you**
31 **must conduct a garnishment account review for each account that you hold for the debtor. If a**
32 **Notice of Right to Garnish Federal Benefits from the United States Government or from a state**
33 **child support enforcement agency is attached to or included in the garnishment, you should not**
34 **conduct a garnishment account review, and should proceed upon the garnishment in the normal**
35 **manner.”.**

36 In lines 31 through 33, delete the boldfaced material.

37 Delete lines 39 and 40 and insert:

38 **“(c) Public assistance payments from the State of Oregon or an agency of the State of Oregon;**

39 **“(d) Unemployment compensation payments from the State of Oregon or an agency of the State**
40 **of Oregon;”.**

41 On page 13, delete lines 9 through 36 and insert:

42 **“Before making a payment under the writ, you may first deduct any processing fee that you are**
43 **allowed under ORS 18.790. If you are required to conduct a garnishment account review, you may**
44 **not charge or collect a processing fee against any amount that is not subject to garnishment, and**
45 **may not charge or collect a garnishment processing fee against any amounts in the account after**

1 the date that you conduct the review.

2
3 “You need not deliver any property contained in a safe deposit box unless the Garnishor pays
4 you in advance for the costs that will be incurred in gaining entry to the box. See ORS 18.792.

5
6 “If you are required to conduct a garnishment account review and you determine from the re-
7 view that one or more of the payments listed in ORS 18.619 (3) have been deposited into the debtor’s
8 account by direct deposit or electronic payment during the lookback period described in ORS 18.619
9 (2), and that there is a positive balance in the account, you must issue a notice to the account
10 holder in substantially the form set forth in section 10 of this 2011 Act. The notice must be issued
11 directly to the account holder or to a fiduciary who administers the account and receives commu-
12 nications on behalf of the account holder. The notice must be sent separately to the account holder
13 and may not be included with other materials being provided to the account holder that do not re-
14 late to the garnishment. You must send the notice to the account holder within three business days
15 after you complete the garnishment account review. You may issue one notice with information re-
16 lated to multiple accounts of a single account holder.

17 “ _____
18
19 **“SECTION 9. ORS 18.619 and section 10 of this 2011 Act are added to and made a part**
20 **of ORS 18.600 to 18.850.”.**

21 In line 37, delete “8” and insert “10”.

22 On page 15, delete lines 35 and 36 and insert:

- 23 • Public assistance payments from the State of Oregon or an agency of the State of Oregon
24 • Unemployment compensation payments from the State of Oregon or an agency of the State
25 of Oregon”.

26 On page 16, delete lines 15 through 20 and insert:

27 **“SECTION 11. (1) Sections 4, 5, 6 and 10 of this 2011 Act and the amendments to ORS**
28 **18.600, 18.619, 18.790 and 18.838 by sections 1, 2, 7 and 8 of this 2011 Act become operative 30**
29 **days after the effective date of this 2011 Act.**

30 **“(2) Sections 4, 5, 6 and 10 of this 2011 Act and the amendments to ORS 18.600, 18.619,**
31 **18.790 and 18.838 by sections 1, 2, 7 and 8 of this 2011 Act apply only to garnishments issued**
32 **on or after the operative date specified in subsection (1) of this section.”.**

33 In line 21, delete “10” and insert “12”.