

Enrolled
Senate Bill 185

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CHAPTER

AN ACT

Relating to garnishment by the Department of Revenue; creating new provisions; amending ORS 18.855; and declaring an emergency.

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

SECTION 1. ORS 18.855 is amended to read:

18.855. (1) Notwithstanding ORS 18.607, a notice of garnishment issued by a state agency need not contain the name of a court whose authority is invoked.

(2) State agencies shall make such modifications as are necessary in the wage exemption calculation form provided by ORS 18.840 if a notice of garnishment is issued for a debt due for a state tax that is subject to the provisions of ORS 18.385 (6).

(3) Notwithstanding ORS 18.625, but subject to ORS 18.618 (2), a notice of garnishment issued by a state agency acts to garnish all wages earned by the debtor by reason of services to the garnishee until the full amount of the debt is paid or until the notice of garnishment is released by the state agency or by court order. A notice of garnishment issued by a state agency must contain language reasonably designed to notify the garnishee of the provisions of this subsection.

(4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a state agency need not deliver a copy of the garnishee response to the clerk of the court, but must deliver the original of the response to the state agency.

(5) Notwithstanding ORS 18.700, a challenge to a notice of garnishment issued by a state agency must be delivered in person or by first class mail to the state agency within the time specified by ORS 18.700 (2). Upon receiving a challenge, the state agency shall provide notice of the challenge in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff shall proceed as provided by ORS 18.760, except that upon determination of the challenge by an administrative law judge, the sheriff shall proceed as directed by the judge. Within 14 days after receiving the challenge, the state agency must either concede the challenge or give the person making the challenge opportunity for hearing. If the person making the challenge requests a hearing, the agency shall immediately refer the challenge to the Office of Administrative Hearings established under ORS 183.605. The hearing shall be conducted as soon as possible. Notwithstanding ORS 183.315, the hearing shall be conducted as a contested case hearing. An issue that was decided in a previous hearing, or for which the debtor was previously afforded an opportunity for hearing, may not be reconsidered.

(6) If a state agency is issuing a notice of garnishment for collection of a state tax, and the state agency has reason to believe that the debtor intends to leave the state or do any other act that

would jeopardize collection of the tax, the state agency may issue a special notice of garnishment. Any earnings, as defined in ORS 18.375, garnished under a special notice of garnishment are not subject to a claim of exemption under ORS 18.385. A special notice of garnishment issued under this subsection garnishes only that property of the debtor that is in the garnishee's possession, control or custody at the time the special notice is delivered, including debts not yet due, and all wages owed by the garnishee to the debtor at the time the special notice is delivered. A special notice of garnishment does not act to garnish wages earned by the debtor by reason of services rendered to the garnishee after the delivery of the special notice of garnishment.

(7) A special notice of garnishment issued under subsection (6) of this section shall contain a statement indicating that it is a special notice of garnishment under subsection (6) of this section and a statement reflecting the provisions of subsection (6) of this section. Notwithstanding ORS 18.854 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special notice of garnishment.

(8) Notwithstanding ORS 18.854 (1)(b), the Department of Revenue is not required to deliver a warrant or true copy of a warrant with the notice of garnishment when garnishing property of a debtor.

(9) Notwithstanding ORS 18.607 (4), a notice of garnishment issued by the Department of Revenue must include the name of the person issuing the notice on behalf of the department, but need not be signed by that person.

SECTION 2. The amendments to ORS 18.855 by section 1 of this 2013 Act apply only to notices of garnishment issued on and after January 1, 2014.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by Senate April 17, 2013

Received by Governor:

Repassed by Senate June 5, 2013

.....M.,....., 2013

Approved:

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Robert Taylor, Secretary of Senate

.....M.,....., 2013

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Peter Courtney, President of Senate

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John Kitzhaber, Governor

Passed by House June 3, 2013

Filed in Office of Secretary of State:

.....M.,....., 2013

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Tina Kotek, Speaker of House

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Kate Brown, Secretary of State