

**PROPOSED AMENDMENTS TO  
SENATE BILL 396**

1 On page 1 of the printed bill, line 2, after “18.345,” insert “18.395, 18.402,  
2 18.412.”

3 On page 2, delete lines 39 through 45 and delete pages 3 through 9 and  
4 insert:

5 **“SECTION 2. ORS 18.845 is amended to read:**

6 “18.845. A notice of exemptions form must be in substantially the form set  
7 forth in this section. Nothing in the notice form described in this section is  
8 intended to expand or restrict the law relating to exempt property. A deter-  
9 mination as to whether property is exempt from execution, attachment and  
10 garnishment must be made by reference to other law. The form provided in  
11 this section may be modified to provide more information or to update the  
12 notice based on subsequent changes in exemption laws.

13 “ \_\_\_\_\_

14 NOTICE OF EXEMPT PROPERTY  
15 AND INSTRUCTIONS FOR  
16 CHALLENGE TO GARNISHMENT  
17

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

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

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

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

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

6 (b) \$218 per workweek.

7 (2) Social Security benefits.

8 (3) Supplemental Security Income (SSI).

9 (4) Public assistance (welfare).

10 (5) Unemployment benefits.

11 (6) Disability benefits (other than SSI benefits).

12 (7) Workers' compensation benefits.

13 (8) All Social Security benefits and Supplemental Security Income bene-  
14 fits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unem-  
15 ployment benefits and disability benefits, that are held in a bank account.  
16 You may attach copies of bank statements to the Challenge to Garnishment  
17 form if you claim this exemption.

18 (9) Spousal support, child support or separate maintenance to the extent  
19 reasonably necessary for your support or the support of any of your depen-  
20 dents.

21 (10) A homestead (house, manufactured dwelling or floating home) occu-  
22 pied by you, or occupied by your spouse, parent or child. Up to [~~\$40,000~~]  
23 **\$550,000** of the value of the homestead is exempt. [*If you jointly own the*  
24 *homestead with another person who is also liable on the debt, up to \$50,000*  
25 *of the value of the homestead is exempt*].

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

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

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

3       \*(14) Tools, implements, apparatus, team, harness or library that are  
4 necessary to carry on your occupation, with a combined value not to exceed  
5 \$5,000.

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

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

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

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

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

15       (20) Public or private pensions.

16       (21) Veterans' benefits and loans.

17       (22) Medical assistance benefits.

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

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

22       (25) Federal annuities.

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

25       (27) Professionally prescribed health aids for you or any of your depen-  
26 dents.

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

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

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

30       (b) A payment or payments, not exceeding a total of \$10,000, on account

1 of personal bodily injury suffered by you or an individual of whom you are  
2 a dependent.

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

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

8 **(31) Your right to the assets held in, or right to receive payments**  
9 **under, a medical savings account or health savings account authorized**  
10 **under section 220 or 223 of the Internal Revenue Code.**

11 \*[(31)] **(32)** Interest in personal property to the value of \$400, but this  
12 cannot be used to increase the amount of any other exemption.

13 [(32)] **(33)** Equitable interests in property.

14 [(33)] **(34)** Security deposits or prepaid rent held by a residential landlord  
15 under ORS 90.300.

16 [(34)] **(35)** If the amount shown as owing on the Debt Calculation form  
17 exceeds the amount you actually owe to the creditor, the difference between  
18 the amount owed and the amount shown on the Debt Calculation form.

19

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

22 “

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23 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD  
24 SUPPORT AND SPOUSAL SUPPORT. Some property that may not other-  
25 wise be taken for payment against the debt may be taken to pay for overdue  
26 support. For instance, Social Security benefits, workers' compensation bene-  
27 fits, unemployment benefits, veterans' benefits and pensions are normally  
28 exempt, but only 50 percent of a lump sum payment of these benefits is ex-  
29 empt if the debt is owed for a support obligation.

30

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

4 (1) Fill out the Challenge to Garnishment form that you received with  
5 this notice.

6 (2) Mail or deliver the Challenge to Garnishment form to the court ad-  
7 ministrator at the address shown on the writ of garnishment, and mail or  
8 deliver a copy of the form to the Garnishor at the address shown on the writ  
9 of garnishment. If you wish to claim wages or salary as exempt, you must  
10 mail or deliver the form within 120 days after you receive this notice. If you  
11 wish to claim that any other money or property is exempt, or claim that the  
12 property is not subject to garnishment, you must mail or deliver the form  
13 within 30 days after you receive this notice. You have the burden of showing  
14 that your challenge is made on time, so you should keep records showing  
15 when the challenge was mailed or delivered.

16 (3) The law only requires that the Garnishor hold the garnished money  
17 or property for 10 days before applying it to the Creditor's use. You may be  
18 able to keep the property from being used by the Creditor by promptly fol-  
19 lowing (1) and (2) above.

20

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

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

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

26 (2) To assert that property is not garnishable property under ORS 18.618.

27 (3) To assert that the amount specified in the writ of garnishment as be-  
28 ing subject to garnishment is greater than the total amount owed.

29

30 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM

1 TO CHALLENGE THE VALIDITY OF THE DEBT.

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

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

12 “ \_\_\_\_\_

13 **“SECTION 3.** ORS 18.896 is amended to read:

14 “18.896. (1) The challenge to execution form described in this section does  
15 not expand or restrict the law relating to exempt property. A determination  
16 as to whether property is exempt from attachment or execution must be made  
17 by reference to other law. The form provided in this section may be modified  
18 to provide more information or to update the notice based on subsequent  
19 changes in exemption laws.

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

22 “ \_\_\_\_\_

23 \_\_\_\_\_ COURT  
24 COUNTY OF \_\_\_\_\_

25

26 \_\_\_\_\_ ) CHALLENGE TO

27 Plaintiff, ) EXECUTION

28 )

29 vs. ) Case No. \_\_\_\_\_

30 )

1 \_\_\_\_\_ )  
2 Defendant. )

3

4 THIS FORM MAY BE USED BY THE DEBTOR ONLY FOR THE FOL-  
5 LOWING PURPOSES:

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

9

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

13

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

16

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

19 \_\_\_\_\_

20 \_\_\_\_\_

21

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

25 \_\_\_\_\_

26 \_\_\_\_\_

27

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

30 \_\_\_\_\_

1 \_\_\_\_\_  
2  
3 Name \_\_\_\_\_ Name \_\_\_\_\_  
4 Signature \_\_\_\_\_ Signature \_\_\_\_\_  
5 Address \_\_\_\_\_ Address \_\_\_\_\_  
6 \_\_\_\_\_  
7 Telephone Telephone  
8 Number \_\_\_\_\_ Number \_\_\_\_\_  
9 (Required) (Required)

10  
11

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

15 (1) Fill out the Challenge to Execution form that you received with this  
16 notice.

17 (2) Mail or deliver the Challenge to Execution form to the court admin-  
18 istrator at the address shown on the writ of execution.

19 (3) Mail or deliver a copy of the Challenge to Execution form to the  
20 judgment creditor at the address shown on the writ of execution.

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

23

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

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

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

29

30 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO



1 CHALLENGE THE VALIDITY OF THE DEBT.

2

3 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE  
4 SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD IN-  
5 CLUDE A FINE. Penalties that you could be subject to are listed in ORS  
6 18.899.

7

8 NOTICE OF EXEMPT PROPERTY

9

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

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

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

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

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

20 (b) \$218 per workweek.

21 (2) Social Security benefits.

22 (3) Supplemental Security Income (SSI).

23 (4) Public assistance (welfare).

24 (5) Unemployment benefits.

25 (6) Disability benefits (other than SSI benefits).

26 (7) Workers' compensation benefits.

27 (8) All Social Security benefits and Supplemental Security Income bene-  
28 fits, and up to \$7,500 in exempt wages, retirement benefits, welfare, unem-  
29 ployment benefits and disability benefits, that are held in a bank account.

30 (9) Spousal support, child support or separate maintenance to the extent

1 reasonably necessary for your support or the support of any of your depen-  
2 dents.

3 (10) A homestead (house, manufactured dwelling or floating home) occu-  
4 pied by you, or occupied by your spouse, parent or child. Up to [~~\$40,000~~  
5 **\$550,000** of the value of the homestead is exempt. *[If you jointly own the*  
6 *homestead with another person who is also liable on the debt, up to \$50,000*  
7 *of the value of the homestead is exempt.]*

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

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

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

15 \*(14) Tools, implements, apparatus, team, harness or library that are  
16 necessary to carry on your occupation, with a combined value not to exceed  
17 \$5,000.

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

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

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

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

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

27 (20) Public or private pensions.

28 (21) Veterans' benefits and loans.

29 (22) Medical assistance benefits.

30 (23) Health insurance proceeds and disability proceeds of life insurance

1 policies.

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

4 (25) Federal annuities.

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

7 (27) Professionally prescribed health aids for you or any of your depen-  
8 dents.

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

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

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

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

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

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

20 **(31) Your right to the assets held in, or right to receive payments**  
21 **under, a medical savings account or health savings account authorized**  
22 **under section 220 or 223 of the Internal Revenue Code.**

23 [(31)] (32) Interest in personal property to the value of \$400, but this  
24 cannot be used to increase the amount of any other exemption.

25 [(32)] (33) Equitable interests in property.

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

28

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29 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD  
30 SUPPORT AND SPOUSAL SUPPORT. Some property that may not other-

1 wise be taken for payment against the debt may be taken to pay for overdue  
2 support. For instance, Social Security benefits, workers' compensation bene-  
3 fits, unemployment benefits, veterans' benefits and pensions are normally  
4 exempt, but only 50 percent of a lump sum payment of these benefits is ex-  
5 empt if the debt is owed for a support obligation.

6

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7 **“SECTION 4.** ORS 18.395 is amended to read:

8 “18.395. (1) A homestead shall be exempt from sale on execution, from the  
9 lien of every judgment and from liability in any form for the debts of the  
10 owner to the amount in value of [~~\$40,000~~] **\$550,000**, except as otherwise pro-  
11 vided by law. The exemption shall be effective without the necessity of a  
12 claim thereof by the judgment debtor. When two or more members of a  
13 household are debtors whose interests in the homestead are subject to sale  
14 on execution, the lien of a judgment or liability in any form, their combined  
15 exemptions under this section [~~shall~~] **may** not exceed [~~\$50,000~~] **\$550,000**. The  
16 homestead must be the actual abode of and occupied by the owner, or the  
17 owner's spouse, parent or child, but the exemption shall not be impaired by:

18 “(a) Temporary removal or temporary absence with the intention to re-  
19 occupy the same as a homestead;

20 “(b) Removal or absence from the property; or

21 “(c) The sale of the property.

22 “(2) The exemption shall extend to the proceeds derived from such sale  
23 to an amount not exceeding [~~\$40,000 or \$50,000, whichever amount is appli-~~  
24 *cable under subsection (1) of this section,*] **\$550,000** if the proceeds are held  
25 for a period not exceeding one year and held with the intention to procure  
26 another homestead therewith.

27 “(3) The exemption period under subsection (1)(b) and (c) of this section  
28 shall be one year from the removal, absence or sale, whichever occurs first.

29 “(4) When the owner of a homestead has been granted a discharge in  
30 bankruptcy or has conveyed the homestead property, the value thereof, for

1 the purpose of determining a leviable interest in excess of the homestead  
2 exemption, shall be the value on the date of the petition in bankruptcy,  
3 whether the value is determined in the bankruptcy proceedings or not, or on  
4 the date the conveyance becomes effective, whichever shall first occur.  
5 However, with respect to judgments not discharged in the bankruptcy, or  
6 entered against the owner after discharge, the value on the effective date of  
7 conveyance shall be controlling.

8 “(5) Except as provided in subsection (7) of this section, no homestead  
9 that is the actual abode of and occupied by the judgment debtor, or that is  
10 the actual abode of and occupied by a spouse, dependent parent or dependent  
11 child of the judgment debtor, shall be sold on execution to satisfy a judgment  
12 that at the time of entry does not exceed \$3,000. However, such judgment  
13 shall remain a lien upon the real property, and the property may be sold on  
14 execution:

15 “(a) At any time after the sale of the property by the judgment debtor;  
16 and

17 “(b) At any time after the property is no longer the actual abode of and  
18 occupied by the judgment debtor or the spouse, dependent parent or depend-  
19 ent child of the judgment debtor.

20 “(6) The limitation on execution sales imposed by subsection (5) of this  
21 section is not impaired by temporary removal or temporary absence with the  
22 intention to reoccupy the property as a homestead.

23 “(7) The limitation on execution sales imposed by subsection (5) of this  
24 section does not apply if two or more judgments are owing to a single judg-  
25 ment creditor and the total amount owing to the judgment creditor, deter-  
26 mined by adding the amount of each individual judgment as of the date the  
27 judgment was entered, is greater than \$3,000.

28 “(8) Upon the issuance of an order authorizing sale as required by ORS  
29 18.904, and in conformance with subsection (5) of this section, the sheriff  
30 may proceed to sell the property. If the homestead exemption applies, the

1 sheriff shall pay the homestead owner out of the proceeds the sum of [*\$40,000*  
2 *or \$50,000, whichever is applicable,*] **\$550,000** and apply the balance of the  
3 proceeds on the execution. However, no sale shall be made where the home-  
4 stead exemption applies unless the sum bid for the homestead is in excess  
5 of the sum of the costs of sale and [*\$40,000 or \$50,000, whichever is*  
6 *applicable*] **\$550,000**. If no such bid is received, the expense of the sale shall  
7 be borne by the petitioner.

8 “(9) The homestead exemption provided by this section applies to a  
9 purchaser’s interest under a land sale contract, as defined by ORS 18.960.

10 “(10) The homestead exemption provided by this section applies to:

11 “(a) A floating home, as defined by ORS 830.700; and

12 “(b) A manufactured dwelling, as defined by ORS 446.003.

13 **“SECTION 5.** ORS 18.402 is amended to read:

14 “18.402. The homestead mentioned in ORS 18.395 shall consist, when not  
15 located in any town or city laid off into blocks and lots, of any quantity of  
16 land not exceeding 160 acres, and when located in any such town or city, of  
17 any quantity of land not exceeding one block. However, a homestead under  
18 this section shall not exceed in value the sum of [*\$40,000 or \$50,000, which-*  
19 *ever amount is applicable under ORS 18.395 (1)*] **\$550,000**.

20 **“SECTION 6.** ORS 18.412 is amended to read:

21 “18.412. (1) At any time after the date of execution of an agreement to  
22 transfer the ownership of property in which a homestead exemption exists  
23 pursuant to ORS 18.395, the homestead owner or the owner’s transferee may  
24 give notice of intent to discharge the property from the judgment lien to a  
25 judgment creditor. Each notice shall bear the caption of the action in which  
26 the judgment was recovered and shall:

27 “(a) Identify the property and the judgment and state that the judgment  
28 debtor is about to transfer, or has transferred, the property and that the  
29 transfer is intended to discharge the property from any lien effect of the  
30 judgment;

1 “(b) State the fair market value of the property on the date of the notice  
2 or of any applicable petition in bankruptcy, whichever is applicable, and list  
3 the encumbrances against the property, including the nature and date of each  
4 encumbrance, the name of the encumbrancer and the amount presently se-  
5 cured by each encumbrance;

6 “(c) State that the property is claimed by the person giving the notice to  
7 be wholly exempt from the lien of the judgment or, if the value of the prop-  
8 erty exceeds the sum of the encumbrances specified as required under para-  
9 graph (b) of this subsection that are senior to the judgment lien and [*\$40,000*  
10 *or \$50,000, whichever amount of the homestead exemption is applicable under*  
11 *ORS 18.395 (1)*] **\$550,000**, that the amount of the excess or the amount due  
12 on the judgment, whichever is less, will be deposited with the court admin-  
13 istrator for the court in which the judgment was entered for the use of the  
14 judgment holder; and

15 “(d) Advise the holder of the judgment that the property may be dis-  
16 charged from any lien arising from the judgment, without further notice to  
17 the judgment creditor, unless prior to a specified date, which in no case may  
18 be earlier than 14 days after the date of mailing of the notice, the judgment  
19 creditor files objections and a request for a hearing on the matter as pro-  
20 vided in ORS 18.415.

21 “(2) Each notice described by subsection (1) of this section shall be sent  
22 by certified mail to the judgment creditor, as shown by the court records,  
23 at the judgment creditor’s present or last-known address according to the  
24 best knowledge of the person sending the notice. A copy of each notice, to-  
25 gether with proof of mailing, may be filed with the court administrator for  
26 the court in which the judgment was entered and shall be filed by the court  
27 administrator with the records and files of the action in which the judgment  
28 was recovered.

29 **“SECTION 7. The amendments to ORS 18.345, 18.395, 18.402, 18.412,**  
30 **18.845 and 18.896 by sections 1 to 6 of this 2013 Act apply only to exe-**

1 **ctions as defined in ORS 18.005 issued on or after the effective date**  
2 **of this 2013 Act.**

3 **“SECTION 8. This 2013 Act being necessary for the immediate**  
4 **preservation of the public peace, health and safety, an emergency is**  
5 **declared to exist, and this 2013 Act takes effect on its passage.”.**

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