

HB 4131-1  
(LC 122)  
1/28/16 (DFY/ps)

Requested by Representative TAYLOR

**PROPOSED AMENDMENTS TO  
HOUSE BILL 4131**

1 On page 1 of the printed bill, line 2, after “18.655” insert “, 18.999”.

2 On page 2, delete lines 21 through 24 and insert:

3 “(6)(a) The department may add a fee to the amount of the liquidated and  
4 delinquent debt of any delinquent debtor.”.

5 In line 26, before “amount” insert “maximum”.

6 Delete lines 28 through 32 and insert:

7 “(c) A fee added under this subsection may not exceed the total data  
8 match costs incurred by the department in the calendar quarter in which the  
9 fee is assessed, divided by the average number of delinquent debtors as cal-  
10 culated over the preceding four calendar quarters.

11 “(d) As used in this subsection, ‘data match costs’ means the sum of:

12 “(A) Amounts payable to financial institutions under subsection (5) of this  
13 section; and

14 “(B) Amounts payable to vendors or contractors pursuant to agreements  
15 that are reasonably necessary to carry out the data match described in this  
16 section.”.

17 On page 3, line 25, delete “Director”.

18 In line 26, delete “of the”.

19 In line 29, delete “Department of Revenue” and insert “department”.

20 On page 4, after line 2, insert:

21 “**SECTION 6a.** ORS 18.999 is amended to read:

1       “18.999. This section establishes the right of a plaintiff to recover certain  
2 moneys the plaintiff has expended to recover a debt under ORS 18.854 or to  
3 enforce a judgment and establishes procedures for that recovery. The fol-  
4 lowing apply to this section:

5       “(1) When a plaintiff receives moneys under a garnishment, attachment  
6 or payment, the plaintiff may proceed as follows:

7       “(a) Before crediting the total amount of moneys received against the  
8 judgment or debt, the plaintiff may recover and keep from the total amount  
9 received under the garnishment, attachment or payment any moneys allowed  
10 to be recovered under this section.

11       “(b) After recovering moneys as allowed under paragraph (a) of this sub-  
12 section, the plaintiff shall credit the remainder of the moneys received  
13 against the judgment or debt as provided by law.

14       “(2) Moneys recovered under subsection (1)(a) of this section shall not be  
15 considered moneys paid on and to be credited against the original judgment  
16 or debt sought to be enforced. No additional judgment is necessary to recover  
17 moneys in the manner provided in subsection (1)(a) of this section.

18       “(3) The only moneys a plaintiff may recover under subsection (1)(a) of  
19 this section are those described in subsection (4) of this section that the  
20 plaintiff has paid to enforce the existing specific judgment or debt that the  
21 specific garnishment or attachment was issued to enforce or upon which the  
22 payment was received. Moneys recoverable under subsection (1)(a) of this  
23 section remain recoverable and, except as provided under subsection (8) of  
24 this section, may be recovered from moneys received by the plaintiff under  
25 subsequent garnishments, attachments or payments on the same specific  
26 judgment or debt.

27       “(4) This section allows the recovery only of the following:

28       “(a) Statutorily established moneys that meet the requirements under  
29 subsection (3) of this section, as follows:

30       “(A) Garnishee’s search fees under ORS 18.790.

1 “(B) Fees for delivery of writs of garnishment under ORS 18.652.  
2 “(C) Circuit court fees as provided under ORS 21.235 and 21.258.  
3 “(D) County court fees as provided under ORS 5.125.  
4 “(E) County clerk recording fees as provided in ORS 205.320.  
5 “(F) Actual fees or disbursements made under ORS 21.300.  
6 “(G) Costs of execution as provided in ORS 105.112.  
7 “(H) Fees paid to an attorney for issuing a garnishment in an amount not  
8 to exceed \$37 for each garnishment.  
9 “(I) Costs of an execution sale as described in ORS 18.950 (2).  
10 “(J) Fees paid under ORS 21.200 for motions and responses to motions  
11 filed after entry of a judgment.  
12 “(K) Amounts paid to a sheriff for the fees and expenses of executing a  
13 warrant under ORS 105.510.  
14 **“(L) Fees added to liquidated and delinquent debts under section 2**  
15 **(6) of this 2016 Act.**  
16 “(b) Interest on the amounts specified in paragraph (a) of this subsection  
17 at the rate provided for judgments in ORS 82.010 for the period of time be-  
18 ginning with the expenditure of the amount and ending upon recovery of the  
19 amount under this section.  
20 “(5) The plaintiff shall be responsible for doing all of the following:  
21 “(a) Maintaining a precise accounting of moneys recovered under sub-  
22 section (1)(a) of this section and making the accounting available for any  
23 proceeding relating to that judgment or debt.  
24 “(b) Providing reasonable notice to the defendant of moneys the plaintiff  
25 recovers under subsection (1)(a) of this section.  
26 “(6) Moneys recovered under subsection (1)(a) of this section remain sub-  
27 ject to all other provisions of law relating to payments, or garnished or at-  
28 tached moneys including, but not limited to, those relating to exemption,  
29 claim of exemption, overpayment and holding periods.  
30 “(7) Nothing in this section limits the right of a plaintiff to recover

1 moneys described in this section or other moneys in any manner otherwise  
2 allowed by law.

3 “(8) A writ of garnishment or attachment is not valid if issued solely to  
4 recover moneys recoverable under subsection (1)(a) of this section unless the  
5 right to collect the moneys is first reduced to a judgment or to a debt en-  
6 forceable under ORS 18.854.”

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