

## HOUSE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2795

By JOINT COMMITTEE ON WAYS AND MEANS

July 4

1 On page 1 of the printed A-engrossed bill, line 2, after “18.999,” insert “20.190,”.

2 In line 3, after “21.235,” insert “24.135,”.

3 On page 3, line 6, delete “\$265” and insert “\$267”.

4 In line 8, delete “\$558” and insert “\$560”.

5 In line 10, delete “\$832” and insert “\$834”.

6 In line 12, delete “\$1,109” and insert “\$1,111”.

7 On page 4, after line 20, insert:

8 “**SECTION 7a.** ORS 24.135 is amended to read:

9 “24.135. (1) If the judgment debtor shows the court of any county that an appeal from the foreign  
10 judgment is pending or will be taken, or that a stay of execution has been granted, the court shall  
11 stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires,  
12 or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished  
13 the security for the satisfaction of the judgment required by the state in which it was rendered.

14 “(2) If the judgment debtor shows the court of any county any ground upon which enforcement  
15 of a judgment of any court of any county of this state would be stayed, the court shall stay  
16 enforcement of the foreign judgment for an appropriate period, upon requiring the same security for  
17 satisfaction of the judgment which is required in this state.

18 “(3) Any person making an appearance in proceedings related to foreign judgments filed under  
19 ORS 24.115, including a judgment debtor filing a proceeding seeking a stay of judgment under this  
20 section or otherwise seeking relief from enforcement of the judgment, must pay the filing fee estab-  
21 lished under ORS [21.135] **21.160 (1)(a)**.”.

22 On page 5, line 12, after “21.180,” insert “24.135,”.

23 On page 8, line 42, delete “\$39” and insert “\$45”.

24 On page 9, line 26, delete “\$39” and insert “\$45”.

25 On page 12, after line 10, insert:

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### “PREVAILING PARTY FEES

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29 “**SECTION 25.** ORS 20.190 is amended to read:

30 “20.190. (1) Except as provided in subsections (2) to (5) of this section, a prevailing party in a  
31 civil action or proceeding who has a right to recover costs and disbursements in the following cases  
32 also has a right to recover, as a part of the costs and disbursements, the following additional  
33 amounts:

34 “(a) In the Supreme Court or Court of Appeals, on an appeal, \$100.

35 “(b) In a circuit court:

1 “(A) When judgment is given without trial of an issue of law or fact or on an appeal, \$85; or  
2 “(B) When judgment is given after trial of an issue of law or fact, \$105.  
3 “(c) In a small claims department, a county court or justice court:  
4 “(A) When judgment is given without trial of an issue of law or fact or on an appeal, \$50; or  
5 “(B) When judgment is given after trial of an issue of law or fact, \$60.  
6 “(2) In lieu of the prevailing party fee provided for in subsection (1) of this section, in any civil  
7 action or proceeding in which recovery of money or damages is sought, a prevailing party who has  
8 a right to recover costs and disbursements also has a right to recover, as a part of the costs and  
9 disbursements, the following additional amounts:  
10 “(a) In a circuit court:  
11 “(A) When judgment is given without trial of an issue of law or fact, [~~\$300~~] **\$325**; or  
12 “(B) When judgment is given after trial of an issue of law or fact, [~~\$575~~] **\$600**.  
13 “(b) In a small claims department, a county court or justice court:  
14 “(A) When judgment is given without trial of an issue of law or fact, [~~\$100~~] **\$110**; or  
15 “(B) When judgment is given after trial of an issue of law or fact, [~~\$115~~] **\$125**.  
16 “(3) In addition to the amounts provided for in subsection (2) of this section, in any civil action  
17 or proceeding in a circuit court in which recovery of money or damages is sought, the court may  
18 award to the prevailing party up to an additional \$5,000 as a prevailing party fee. The court shall  
19 consider the following factors in making an award under the provisions of this subsection:  
20 “(a) The conduct of the parties in the transactions or occurrences that gave rise to the liti-  
21 gation, including any conduct of a party that was reckless, willful, malicious, in bad faith or illegal.  
22 “(b) The objective reasonableness of the claims and defenses asserted by the parties.  
23 “(c) The extent to which an award of a larger prevailing party fee in the case would deter  
24 others from asserting good faith claims or defenses in similar cases.  
25 “(d) The extent to which an award of a larger prevailing party fee in the case would deter  
26 others from asserting meritless claims and defenses.  
27 “(e) The objective reasonableness of the parties and the diligence of the parties and their at-  
28 torneys during the proceedings.  
29 “(f) The objective reasonableness of the parties and the diligence of the parties in pursuing  
30 settlement of the dispute.  
31 “(g) Any award of attorney fees made to the prevailing party as part of the judgment.  
32 “(h) Such other factors as the court may consider appropriate under the circumstances of the  
33 case.  
34 “(4) Nonprevailing parties are jointly liable for the prevailing party fees provided for in this  
35 section. A court may not award more than one prevailing party fee to a prevailing party under this  
36 section, or more than one prevailing party fee against a nonprevailing party regardless of the num-  
37 ber of parties in the action, and, upon being paid the amount of the award, the prevailing party may  
38 not seek recovery of any additional amounts under the provisions of this section from any other  
39 nonprevailing party.  
40 “(5) In any appeal from the award or denial of a prevailing party fee under subsection (2) of this  
41 section, the court reviewing the award may not modify the decision of the court in making or de-  
42 nying an award, or the decision of the court as to the amount of the award, except upon a finding  
43 of an abuse of discretion.  
44 “(6) The prevailing party fees provided for in this section may not be awarded in the following  
45 proceedings:

1       “(a) A class action proceeding under ORCP 32.

2       “(b) A condemnation proceeding.

3       “(c) Proceedings under the provisions of ORS chapters 25, 107, 108, 109 and 110.

4       “(7) Mandatory arbitration under ORS 36.400 to 36.425 does not constitute a trial of an issue  
5 of law or fact for the purposes of this section.

6       “**SECTION 26. The amendments to ORS 20.190 by section 25 of this 2017 Act apply to**  
7 **actions commenced on or after October 1, 2017.**”

8       In line 14, delete “25” and insert “27”.

9       In line 16, delete the blank and insert “8.85”.

10      In line 19, delete “26” and insert “28” and delete “25” and insert “27”.

11      In line 24, delete “27” and insert “29”.

12      In line 30, delete “28” and insert “30”.

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