

A-Engrossed
House Bill 2920

Ordered by the House April 7
Including House Amendments dated April 7

Sponsored by Representative ESQUIVEL; Representatives BARRETO, HEARD, NEARMAN, SMITH G

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Provides that judgment debtor or other person may move court for order declaring that money award has been satisfied or for determination of amount necessary to satisfy money award 10 days after requesting that judgment creditor file satisfaction document.

[Removes requirement that judgment creditor act willfully from] **Modifies** provision allowing award of attorney fees for failure to provide satisfaction document.

A BILL FOR AN ACT

Relating to satisfactions of money awards; creating new provisions; and amending ORS 18.235.

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

SECTION 1. ORS 18.235 is amended to read:

18.235. (1) A judgment debtor, or a person with an interest in real property against which a judgment lien exists, may move the court for an order declaring that a money award has been satisfied or for a determination of the amount necessary to satisfy the money award[, *when the person making the motion cannot otherwise obtain a satisfaction document from a judgment creditor*]. **The judgment debtor or other person may file a motion under this section 10 days after requesting that the judgment creditor file a satisfaction document.**

(2) Motions under this section shall be filed in the action in which the judgment was entered. All proceedings on the motion shall be conducted as part of the action in which the judgment was entered. An appearance fee may not be charged for filing a motion under this section.

(3) A motion under this section must include the following information, to the extent known to the person making the motion:

(a) The date of entry and principal amount of the money award.

(b) The rate of interest and the date the interest commenced to accrue.

(c) The date or dates and amounts of any payments on the money award.

(d) Any amount that the person believes remains to be paid on the money award, including any supporting mathematical calculations.

(e) Any other information necessary or helpful to the court in making its determination.

(4) A person making a motion under this section must serve the motion on the judgment creditor. If the person making the motion is not the judgment debtor, the person also must serve the motion and supporting affidavit on the judgment debtor. If an assignment of judgment document has been filed with the court under ORS 18.205, the motion must be served on the person named as the assignee of the judgment. Service on the judgment creditor and judgment debtor under this sub-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 section may be made as provided in ORCP 9 if the motion is filed within one year after entry of the
2 judgment. If the motion is filed more than one year after entry of the judgment, or service is to be
3 made on an assignee of the judgment, the motion may either be personally served as provided in
4 ORCP 7, or be served by certified mail, return receipt requested with signed receipt. The court may
5 waive service on any person under this subsection if the person making the motion files an affidavit
6 with the court stating that the person cannot be found after diligent effort by the person making the
7 motion. The person making the motion shall file proof of service with the court.

8 (5) A person served with a motion under this section must file a response within 21 days after
9 service is made, or within such time as may be allowed by the court. The response must specifically
10 identify those assertions in the motion that the person contests. The response must contain any in-
11 formation or mathematical calculations necessary to support the contentions of the responding
12 party.

13 (6) The court shall hear the motion not less than seven days after notice of hearing is given to
14 the person making the motion and to the parties served with the motion. The court shall hear and
15 determine the issues in a summary fashion without a jury. The court shall give the parties a rea-
16 sonable opportunity to present evidence relevant to any factual issues.

17 (7) If the court determines that the person making the motion is entitled to relief, the court shall
18 issue an order providing that the money award has been satisfied in full or, if the money award has
19 not been satisfied in full, the specific amount that will satisfy the judgment on a specific date or
20 within a period of time specified in the order.

21 (8) If the court finds that the judgment creditor [*willfully*] failed to provide a satisfaction docu-
22 ment under ORS 18.225, the court may render a supplemental judgment awarding reasonable attor-
23 ney fees to the person making the motion, **unless the judgment creditor establishes that the**
24 **failure to provide the satisfaction document was not the fault of the judgment creditor.** The
25 supplemental judgment may provide that the person making the motion may satisfy the judgment by
26 paying such amounts the court determines to be necessary to satisfy the judgment less that sum of
27 money the court awards as attorney fees.

28 (9) If the court finds that the money award has been satisfied, or if the amount specified by the
29 court is paid to the court administrator within the time specified by the court, the court adminis-
30 trator shall note in the register and in the judgment lien record that the money award has been
31 satisfied in full. The court administrator shall deliver any money paid to the court administrator to
32 the party or parties specified in the court's order.

33 (10) Upon request of the person making the motion, the court administrator shall issue a cer-
34 tificate indicating that the money award has been satisfied. The certificate may be recorded in any
35 County Clerk Lien Record in which the judgment was recorded under ORS 18.152. Recording of the
36 certificate eliminates any judgment lien that was created by the recording of the judgment.

37 (11) At least five days before filing a motion under this section, the person must serve by per-
38 sonal delivery or first class mail a copy of the motion on the Administrator of the Division of Child
39 Support of the Department of Justice, or on the branch office of the Department of Justice providing
40 support services to the county in which the motion will be made, if:

41 (a) The motion relates to satisfaction of a support award; and

42 (b) Child support rights, as defined in ORS 25.010, for the judgment creditor have been assigned
43 to the state.

44 (12) This section does not apply to justice courts, municipal courts or county courts performing
45 judicial functions.

1 **SECTION 2.** The amendments to ORS 18.235 by section 1 of this 2017 Act apply only to
2 satisfaction documents requested or filed on or after the effective date of this 2017 Act.
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