

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2795**

1 In line 2 of the printed bill, after “fees” insert “; creating new provisions;
2 amending ORS 18.999, 21.006, 21.010, 21.025, 21.135, 21.145, 21.155, 21.160,
3 21.170, 21.180, 21.200, 21.205, 21.215, 21.225, 21.235, 46.570, 105.130, 106.120 and
4 205.320; declaring an emergency; and providing for revenue raising that re-
5 quires approval by a three-fifths majority”.

6 Delete lines 4 through 6 and insert:
7

8 **“FILING FEES**
9

10 **“SECTION 1.** ORS 21.010 is amended to read:

11 “21.010. (1) Except as provided in this section, the appellant in an appeal
12 or the petitioner in a judicial review in the Supreme Court or the Court of
13 Appeals shall pay a filing fee of [~~\$373~~] **\$391** in the manner prescribed by ORS
14 19.265. The respondent in such case and any other person appearing in the
15 appeal, upon entering first appearance or filing first brief in the court, shall
16 pay to the State Court Administrator a filing fee of [~~\$373~~] **\$391**. The party
17 entitled to costs and disbursements on such appeal shall recover from the
18 opponent the amount so paid.

19 “(2) Filing and appearance fees may not be assessed in appeals from
20 habeas corpus proceedings under ORS 34.710, post-conviction relief pro-
21 ceedings under ORS 138.650, juvenile court under ORS 419A.200, the invol-

1 untary commitment of persons determined to be persons with mental illness
2 under ORS 426.135 or persons determined to have an intellectual disability
3 under ORS 427.295 or orders of the State Board of Parole and Post-Prison
4 Supervision or on judicial review of orders entered under ORS 161.315 to
5 161.351 by the Psychiatric Security Review Board or the Oregon Health Au-
6 thority.

7 “(3) Filing and appearance fees shall be assessed in an appeal from an
8 appeal to a circuit court from a justice court or municipal court in an action
9 alleging commission of a state offense designated as a violation or an action
10 alleging violation of a city charter or ordinance, but not in an action alleg-
11 ing commission of a state crime.

12 “(4) Filing and appearance fees shall only be assessed in an appeal in a
13 contempt proceeding seeking imposition of remedial sanctions under the
14 provisions of ORS 33.055.

15 “(5) The filing and appearance fees established by this section apply to
16 cases of original jurisdiction in the Supreme Court.

17 **“SECTION 2.** ORS 21.135 is amended to read:

18 “21.135. (1) Unless a specific fee is provided by subsection (3) of this sec-
19 tion or other law for a proceeding, a circuit court shall collect a filing fee
20 of [~~\$252~~] **\$265** when a complaint or other document is filed for the purpose
21 of commencing an action or other civil proceeding and when an answer or
22 other first appearance is filed in the proceeding.

23 “(2) The filing fee established by subsection (1) of this section applies to:

24 “(a) Proceedings in which only equitable remedies are sought.

25 “(b) Appeals from a conviction of a violation in justice or municipal
26 courts as provided in ORS 21.285.

27 “(c) Interpleader actions.

28 “(d) Actions relating to a trust.

29 “(e) Proceedings for judicial review of an agency order.

30 “(f) Declaratory judgment actions.

1 “(g) Any other action or proceeding that is statutorily made subject to
2 the fee established by this section and any other civil proceeding for which
3 a specific filing fee is not provided.

4 “(3)(a) The circuit court shall collect a filing fee of \$255 in adoption cases
5 under ORS chapter 109, excluding readoptions under ORS 109.385, when a
6 petition is filed for the purpose of commencing an adoption proceeding or
7 when any other document or other first appearance is filed in the proceeding.
8 The fee shall include the cost of issuing one or more certificates of adoption
9 under ORS 109.410.

10 “(b) When separate petitions for adoption of multiple minor children are
11 concurrently filed under ORS 109.309 by the same petitioner, one filing fee
12 shall be charged for the first petition filed and the filing fees for concur-
13 rently filed petitions shall not be charged.

14 “**SECTION 3.** ORS 21.145 is amended to read:

15 “21.145. In the following proceedings, a circuit court shall collect a filing
16 fee of [~~\$111~~] **\$117** when a complaint or other document is filed for the purpose
17 of commencing an action or other proceeding and at the time of filing an
18 answer or other first appearance in the proceeding:

19 “(1) Applications for change of name under ORS 33.410.

20 “(2) Applications for a legal change of sex under ORS 33.460.

21 “(3) Guardianship proceedings under ORS chapter 125.

22 “(4) Any other action or proceeding that is statutorily made subject to the
23 fee established by this section.

24 “**SECTION 4.** ORS 21.155 is amended to read:

25 “21.155. A circuit court shall collect a filing fee of [~~\$273~~] **\$287** when a
26 complaint or other document is filed for the purpose of commencing one of
27 the following proceedings and when an answer or other first appearance is
28 filed in the proceeding:

29 “(1) Proceedings for dissolution of marriage, annulment of marriage or
30 separation.

1 “(2) Filiation proceedings under ORS 109.124 to 109.230.

2 “(3) Proceedings under ORS 108.110, 109.100 and 109.103.

3 **“SECTION 5.** ORS 21.160 is amended to read:

4 “21.160. (1) A circuit court shall collect the following filing fees when a
5 complaint or other document is filed for the purpose of commencing an
6 action or other civil proceeding based on a tort or contract and when an
7 answer or other first appearance is filed in the proceeding:

8 “(a) If the amount claimed is \$10,000 or less, the court shall collect a
9 filing fee of [~~\$158~~] **\$165**.

10 “(b) If the amount claimed is more than \$10,000 and less than \$50,000, the
11 court shall collect a filing fee of [~~\$252~~] **\$265**.

12 “(c) If the amount claimed is \$50,000 or more, and less than \$1 million,
13 the court shall collect a filing fee of [~~\$531~~] **\$558**.

14 “(d) If the amount claimed is \$1 million or more and less than \$10 million,
15 the court shall collect a fee of [~~\$793~~] **\$832**.

16 “(e) If the amount claimed is \$10 million or more, the court shall collect
17 a filing fee of [~~\$1,056~~] **\$1,109**.

18 “(2) The filing fees provided by this section apply to proceedings for the
19 foreclosure of a mortgage, lien or other security interest. For the purposes
20 of such proceedings, the amount claimed is the amount of the debt secured
21 by the mortgage, lien or other security interest that is owing as of the date
22 that the proceeding is filed.

23 “(3) The filing fees provided by this section apply to proceedings for spe-
24 cific performance of a contract. For the purposes of such proceedings, the
25 amount claimed is the amount owing under the contract on the date that the
26 proceeding is filed.

27 “(4) A court shall collect the filing fees provided by this section when an
28 appeal from a justice court is filed under ORS 53.005 to 53.125 or a case is
29 transferred from a justice court under ORS 52.320.

30 “(5) For purposes of this section, the amount claimed in a proceeding does

1 not include any amount claimed as attorney fees or as costs and disburse-
2 ments.

3 “(6) For purposes of this section, the amount claimed in a proceeding in-
4 cludes any penalty or forfeiture provided by statute or arising out of con-
5 tract.

6 **“SECTION 6.** ORS 21.170 is amended to read:

7 “21.170. (1) Except as provided in ORS 114.515, a probate court shall col-
8 lect the following filing fees for the filing of a petition for the appointment
9 of personal representative:

10 “(a) If the value of the estate is less than \$50,000, [~~\$252~~] **\$265.**

11 “(b) If the value of the estate is \$50,000 or more, but less than \$1 million,
12 [~~\$531~~] **\$558.**

13 “(c) If the value of the estate is \$1 million or more, but less than \$10
14 million, [~~\$793~~] **\$832.**

15 “(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,109.**

16 “(2) A probate court shall collect the following fees for an annual or final
17 accounting filed in a probate proceeding:

18 “(a) If the value of the estate is less than \$50,000, [~~\$32~~] **\$33.**

19 “(b) If the value of the estate is \$50,000 or more, but less than \$1 million,
20 [~~\$268~~] **\$281.**

21 “(c) If the value of the estate is \$1 million or more, but less than \$10
22 million, [~~\$531~~] **\$558.**

23 “(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,109.**

24 “(3) For the purpose of determining the value of the estate under this
25 section, the amount of a settlement in a wrongful death action brought for
26 the benefit of the decedent’s surviving spouse or dependents is not part of
27 the estate.

28 “(4) A person filing an appearance in a probate proceeding must pay the
29 fee established under ORS 21.135.

30 “(5) The fees established under this section apply to county courts exer-

1 cising probate jurisdiction.

2 **“SECTION 7.** ORS 21.180 is amended to read:

3 “21.180. (1) The court shall collect the following filing fees for the filing
4 of the initial documents in a conservatorship proceeding:

5 “(a) If the value of the estate is less than \$50,000, [~~\$252~~] **\$265**.

6 “(b) If the value of the estate is \$50,000 or more, but less than \$1 million,
7 [~~\$531~~] **\$558**.

8 “(c) If the value of the estate is \$1 million or more, but less than \$10
9 million, [~~\$793~~] **\$832**.

10 “(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,109**.

11 “(2) The court shall collect the following fees for an annual or final ac-
12 counting filed in a conservatorship proceeding:

13 “(a) If the value of the estate is less than \$50,000, [~~\$32~~] **\$33**.

14 “(b) If the value of the estate is \$50,000 or more, but less than \$1 million,
15 [~~\$268~~] **\$281**.

16 “(c) If the value of the estate is \$1 million or more, but less than \$10
17 million, [~~\$531~~] **\$558**.

18 “(d) If the value of the estate is \$10 million or more, [~~\$1,056~~] **\$1,109**.

19 “(3) For the purpose of determining the value of the estate under this
20 section, the amount of a settlement in a wrongful death action brought for
21 the benefit of the decedent’s surviving spouse or dependents is not part of
22 the estate.

23 “(4) Except as provided in subsection (1) of this section, at the time of
24 filing an appearance in a conservatorship proceeding the party filing the
25 appearance must pay the filing fee established under ORS 21.135.

26 “(5) The fees established by this section apply to county courts exercising
27 probate jurisdiction.

28 **“SECTION 8.** ORS 46.570 is amended to read:

29 “46.570. The small claims department of a circuit court shall collect the
30 following filing fees from the plaintiff when a claim is filed in the court, and

1 from the defendant when the defendant demands a hearing:

2 “(1) [~~\$53~~] **\$55**, when the amount claimed is \$2,500 or less; and

3 “(2) [~~\$95~~] **\$99**, when the amount is more than \$2,500.

4 **“SECTION 9.** ORS 105.130 is amended to read:

5 “105.130. (1) Except as provided in this section and ORS 105.135, 105.137
6 and 105.140 to 105.161, an action pursuant to ORS 105.110 shall be conducted
7 in all respects as other actions in courts of this state.

8 “(2) Upon filing a complaint in the case of a dwelling unit to which ORS
9 chapter 90 applies, the clerk shall:

10 “(a) Collect a filing fee of [~~\$79~~] **\$83**;

11 “(b) Collect any other fee authorized by law or ordinance; and

12 “(c) With the assistance of the plaintiff or an agent of the plaintiff,
13 complete the applicable summons and provide to the plaintiff or an agent of
14 the plaintiff sufficient copies of the summons and complaint for service.

15 “(3) The court shall collect a filing fee of [~~\$79~~] **\$83** from a defendant that
16 demands a trial under this section.

17 “(4) An action pursuant to ORS 105.110 shall be brought in the name of
18 a person entitled to possession as plaintiff. The plaintiff may appear in per-
19 son or through an attorney. In an action to which ORS chapter 90 applies,
20 the plaintiff may also appear through a nonattorney who is an agent or em-
21 ployee of the plaintiff or an agent or employee of an agent of the plaintiff.

22 “(5) Notwithstanding ORS 9.160, 9.320 and ORS chapter 180, a state
23 agency may appear in an action brought pursuant to ORS 105.110 through
24 an officer or employee of the agency if:

25 “(a) The Attorney General consents to the representation of the agency
26 by an officer or employee in the particular action or in the class of actions
27 that includes the particular action; and

28 “(b) The agency, by rule, authorizes an officer or employee to appear on
29 its behalf in the particular type of action being conducted.

30 “(6) An action brought under ORS 105.110 by a person entitled to pos-

1 session of premises on the basis of circumstances described in ORS 105.115
2 (1)(d), (e) or (f) is subject to the filing fees and other court or sheriff fees
3 applicable to an action concerning a dwelling unit that is subject to ORS
4 chapter 90. The procedure under ORS 105.105 to 105.168 that is applicable to
5 an action concerning a dwelling unit subject to ORS chapter 90 shall also
6 apply to an action brought under ORS 105.115 (1)(d), (e) or (f), except that
7 the complaint must be in the form prescribed in ORS 105.126.

8 **“SECTION 10. (1) The amendments to ORS 21.010, 21.135, 21.145,**
9 **21.155, 21.160, 21.170, 21.180, 46.570 and 105.130 by sections 1 to 9 of this**
10 **2017 Act apply to filings made on or after October 1, 2017.**

11 **“(2) If a civil action or proceeding is filed before October 1, 2017, and**
12 **an answer or other first appearance is not filed in the proceeding until**
13 **on or after October 1, 2017, the person filing the answer or other first**
14 **appearance must pay the appropriate fee prescribed in ORS 21.010,**
15 **21.135, 21.145, 21.155, 21.160, 21.165, 21.170, 21.175, 21.180, 46.570 and**
16 **105.130, as in effect on October 1, 2017.**

17 **“(3) Notwithstanding ORS 21.105 and 21.160, if an action or pro-**
18 **ceeding based on a tort or contract is filed before October 1, 2017, and**
19 **the complaint or any other pleading filed in the proceeding is amended**
20 **on or after October 1, 2017, to increase the amount claimed, the person**
21 **filing the amended pleading must pay an additional filing fee if the**
22 **filing fee under ORS 21.160 is greater than the filing fee previously**
23 **paid. The amount of the additional filing fee is equal to the difference**
24 **between the filing fee previously paid and the filing fee provided by**
25 **ORS 21.160 for the amount claimed.**

26 **“(4) Notwithstanding ORS 21.105, 21.170 and 21.180, if a petition for**
27 **the appointment of a personal representative or the initial documents**
28 **for a conservatorship proceeding are filed before October 1, 2017, and**
29 **the inventory filed in the proceeding is amended to increase the value**
30 **of the estate on or after October 1, 2017, the person filing the amended**

1 **pleading must pay an additional filing fee that is equal to the differ-**
2 **ence between the filing fee that was paid by the party when the ori-**
3 **ginal pleading was filed and the filing fee that would have been**
4 **collected under ORS 21.170 or 21.180 if the amount had been pleaded in**
5 **the original pleading.**

6
7 **“MOTION FEES**

8
9 **“SECTION 11.** ORS 21.025 is amended to read:

10 “21.025. (1) In any appeal or petition for review subject to a fee under
11 ORS 21.010, a [~~\$50~~] **\$53** fee must be paid by the party filing one of the fol-
12 lowing motions and by the party responding to the motion:

13 “(a) A motion to dismiss filed by a respondent.

14 “(b) A motion to determine jurisdiction.

15 “(c) A motion for continuance.

16 “(d) A motion for an extension of time for the filing of a brief or other
17 document in the proceeding.

18 “(2) The fees provided for in this section may not be collected from the
19 state, a county, a city or a school district.

20 **“SECTION 12.** ORS 21.200 is amended to read:

21 “21.200. (1) In any action or other proceeding subject to a fee under ORS
22 21.135, 21.145 or 21.160, a [~~\$100~~] **\$105** fee must be paid by the party filing one
23 of the following motions and by the party responding to the motion:

24 “(a) A motion for summary judgment under ORCP 47.

25 “(b) A motion for judgment notwithstanding the verdict under ORCP 63.

26 “(c) A motion for new trial under ORCP 64.

27 “(d) A motion for relief from judgment under ORCP 71.

28 “(e) A motion for preliminary injunction under ORCP 79.

29 “(f) A motion seeking remedies for contempt of court.

30 “(2) The fees provided for in this section may not be collected from the

1 state, a county, a city or a school district.

2 “(3) The fees provided for in this section may not be collected for motions
3 made to an arbitrator or mediator in an arbitration or mediation required
4 or offered by a court, or to any motion relating to an arbitration or medi-
5 ation required or offered by a court.

6 “(4) The clerk shall file a motion or response that is subject to a fee under
7 this section only if the fee required by this section is paid when the motion
8 or response is submitted for filing.

9 **“SECTION 13.** ORS 21.205 is amended to read:

10 “21.205. (1) In any action or other proceeding subject to a fee under ORS
11 21.155, a [~~\$150~~] **\$158** fee must be paid by the party filing a motion that seeks
12 entry of a supplemental judgment and by a party responding to the motion.

13 “(2) The fee provided for in subsection (1) of this section does not apply
14 to any motion under ORCP 68, 69 or 71.

15 “(3) In any action or other proceeding subject to a fee under ORS 21.155,
16 a [~~\$50~~] **\$53** fee must be paid by the party filing one of the following motions
17 and by a party responding to the motion:

18 “(a) A motion filed under ORS 107.434; and

19 “(b) A motion seeking remedies for contempt of court.

20 “(4) Only the fees specified by subsection (1) of this section may be col-
21 lected if a party concurrently files a motion that seeks entry of a supple-
22 mental judgment and a motion seeking remedies for contempt of court.

23 **“SECTION 14. The amendments to ORS 21.025, 21.200 and 21.205 by**
24 **sections 11 to 13 of this 2017 Act apply to motions filed on or after**
25 **October 1, 2017.**

26

27 **“SETTLEMENT CONFERENCE FEES**

28

29 **“SECTION 15.** ORS 21.215 is amended to read:

30 “21.215. (1) In any civil proceeding subject to a fee under ORS 21.155 in

1 which the parties request a settlement conference before a judge, or in which
2 a settlement conference before a judge is required by law or by the court,
3 each party participating in the conference shall pay a [~~\$100~~] **\$105** fee to the
4 court for each day or partial day during which the conference is conducted.

5 “(2) Notwithstanding ORS 3.428 (3), the fee required under subsection (1)
6 of this section must be paid when parties request a settlement conference
7 through a family law facilitation program.

8 “(3) In civil proceedings other than those described in subsection (1) of
9 this section, if the parties request a settlement conference before a judge,
10 or a settlement conference before a judge is required by law or by the court,
11 each party participating in the conference shall pay a [~~\$200~~] **\$210** fee to the
12 court for each day or partial day during which the conference is conducted.

13 “(4) The fees required by this section shall be collected in advance, and
14 are due and payable on the first day of the settlement conference.

15 **“SECTION 16. The amendments to ORS 21.215 by section 15 of this**
16 **2017 Act apply to settlement conferences conducted on or after October**
17 **1, 2017.**

18
19 **“TRIAL FEES**

20
21 **“SECTION 17. ORS 21.225 is amended to read:**

22 “21.225. (1) In any civil action, suit or proceeding in the circuit court,
23 other than a protective proceeding under ORS chapter 125 or a probate,
24 adoption or change of name proceeding, trial fees shall be collected as pro-
25 vided in this section.

26 “(2) The clerk of the circuit court shall collect from the plaintiff,
27 appellant or moving party, for a trial on the merits without a jury, a trial
28 fee of [~~\$125~~] **\$131** for each full or partial day of the trial. The amount of the
29 fee for the first day of trial shall be collected in advance and is due and
30 payable when the action, suit or proceeding is set for trial. The amount of

1 the fee for subsequent days of trial shall be collected on the day the trial
2 concludes.

3 “(3)(a) The clerk shall collect from the plaintiff or appellant, for a trial
4 by a jury of more than six persons, a jury trial fee of [~~\$225~~] **\$236** for each
5 full or partial day of the trial. The clerk shall collect from the plaintiff or
6 appellant, for a trial by a jury of six persons, a jury trial fee of [~~\$150~~] **\$158**
7 for each full or partial day of the trial. The amount of the fee for the first
8 day of trial shall be collected in advance and is due and payable when the
9 action, suit or proceeding is set for trial by jury. The amount of the fee for
10 subsequent days of trial shall be collected on the day the trial concludes.

11 “(b) If the plaintiff or appellant waives a trial by jury, and the defendant
12 or respondent desires a trial by jury, the clerk shall collect the jury trial fee
13 from the defendant or respondent, and not from the plaintiff or appellant.

14 “(c) A case in which the jury trial fee for the first day of trial has not
15 been paid shall be tried by the court without a jury, unless the court other-
16 wise orders. If a case in which the jury trial fee for the first day of trial has
17 not been paid is tried by a jury, the clerk shall tax against the losing party
18 the total amount of the jury trial fee. The jury trial fee constitutes a mone-
19 tary obligation payable to the court, and may be made part of the judgment
20 in the case by the clerk without further notice to the debtor or further order
21 of the court.

22 “(4) If a counterclaim, cross-claim or third party claim is tried on any day
23 other than a day on which the claim of the plaintiff is tried, the clerk shall
24 collect from the party asserting the counterclaim, cross-claim or third party
25 claim the trial fee or jury trial fee, whichever is applicable, for that day, and
26 shall not collect the applicable fee for that day from the plaintiff. If the
27 party asserting a counterclaim, cross-claim or third party claim waives a
28 trial by jury on the claim, and the party defending against the claim desires
29 a trial by jury on the claim, the clerk shall collect the jury trial fee from
30 the defending party and not from the asserting party.

1 “(5) The fees provided for in this section include any reporting of the trial
2 proceedings, but not the preparation of transcripts of a report.

3 “(6) Except as otherwise provided in subsection (3)(c) of this section, the
4 fees provided for in this section that are paid by a party shall be considered
5 costs and disbursements and may be taxed and collected as other costs and
6 disbursements by the prevailing party.

7 “(7) A court shall order that a trial fee paid under the provisions of this
8 section be refunded to the party that paid the fee if all claims in the action
9 or proceeding are decided without the commencement of a trial and the party
10 that paid the fee files a motion and affidavit requesting refund of the fee not
11 more than 15 days after entry of judgment disposing of the action or pro-
12 ceeding.

13 **“SECTION 18. The amendments to ORS 21.225 by section 17 of this**
14 **2017 Act apply to trials commenced on or after October 1, 2017.**

15

16 **“WRITS OF GARNISHMENT**

17

18 **“SECTION 19.** ORS 18.999 is amended to read:

19 “18.999. This section establishes the right of a plaintiff to recover certain
20 moneys the plaintiff has expended to recover a debt under ORS 18.854 or to
21 enforce a judgment and establishes procedures for that recovery. The fol-
22 lowing apply to this section:

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

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

29 “(b) After recovering moneys as allowed under paragraph (a) of this sub-
30 section, the plaintiff shall credit the remainder of the moneys received

1 against the judgment or debt as provided by law.

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

6 “(3) The only moneys a plaintiff may recover under subsection (1)(a) of
7 this section are those described in subsection (4) of this section that the
8 plaintiff has paid to enforce the existing specific judgment or debt that the
9 specific garnishment or attachment was issued to enforce or upon which the
10 payment was received. Moneys recoverable under subsection (1)(a) of this
11 section remain recoverable and, except as provided under subsection (8) of
12 this section, may be recovered from moneys received by the plaintiff under
13 subsequent garnishments, attachments or payments on the same specific
14 judgment or debt.

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

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

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

19 “(B) Fees for delivery of writs of garnishment under ORS 18.652.

20 “(C) Circuit court fees as provided under ORS 21.235 and 21.258.

21 “(D) County court fees as provided under ORS 5.125.

22 “(E) County clerk recording fees as provided in ORS 205.320.

23 “(F) Actual fees or disbursements made under ORS 21.300.

24 “(G) Costs of execution as provided in ORS 105.112.

25 “(H) Fees paid to an attorney for issuing a garnishment in an amount not
26 to exceed [~~\$37~~] **\$39** for each garnishment.

27 “(I) Costs of an execution sale as described in ORS 18.950 (2).

28 “(J) Fees paid under ORS 21.200 for motions and responses to motions
29 filed after entry of a judgment.

30 “(K) Amounts paid to a sheriff for the fees and expenses of executing a

1 warrant under ORS 105.510.

2 “(b) Interest on the amounts specified in paragraph (a) of this subsection
3 at the rate provided for judgments in ORS 82.010 for the period of time be-
4 ginning with the expenditure of the amount and ending upon recovery of the
5 amount under this section.

6 “(5) The plaintiff shall be responsible for doing all of the following:

7 “(a) Maintaining a precise accounting of moneys recovered under sub-
8 section (1)(a) of this section and making the accounting available for any
9 proceeding relating to that judgment or debt.

10 “(b) Providing reasonable notice to the defendant of moneys the plaintiff
11 recovers under subsection (1)(a) of this section.

12 “(6) Moneys recovered under subsection (1)(a) of this section remain sub-
13 ject to all other provisions of law relating to payments, or garnished or at-
14 tached moneys including, but not limited to, those relating to exemption,
15 claim of exemption, overpayment and holding periods.

16 “(7) Nothing in this section limits the right of a plaintiff to recover
17 moneys described in this section or other moneys in any manner otherwise
18 allowed by law.

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

23 **“SECTION 20.** ORS 21.235 is amended to read:

24 “21.235. (1) A circuit court shall collect a fee of [~~\$16~~] **\$17** for:

25 “(a) Making or entering a transcript of a judgment.

26 “(b) Preparing a certified copy of a satisfaction document under ORS
27 18.225 (5).

28 “(c) Issuing notices of restitution as provided in ORS 105.151.

29 “(d) Any other service that is statutorily made subject to the fee estab-
30 lished in this section.

1 “(2) A circuit court shall collect a fee of [~~\$37~~] **\$39** for issuing a writ of
2 execution or a writ of garnishment.

3 **“SECTION 21. (1) The amendments to ORS 18.999 and 21.235 (2) by**
4 **sections 19 and 20 of this 2017 Act apply to writs of garnishment issued**
5 **on or after October 1, 2017.**

6 **“(2) The amendments to ORS 21.235 (1) by section 20 of this 2017 Act**
7 **apply to services described in ORS 21.235 (1) that are rendered on or**
8 **after October 1, 2017.**

9

10 **“MARRIAGE SOLEMNIZATION**

11

12 **“SECTION 22.** ORS 106.120 is amended to read:

13 “106.120. (1) As used in this section, ‘judicial officer’ means:

14 “(a) A judicial officer of this state as that term is defined in ORS 1.210
15 and includes but is not limited to a judge of a municipal court and a justice
16 of the peace.

17 “(b) An active judge of a federal court.

18 “(c) An active United States magistrate judge.

19 “(2) Marriages may be solemnized by:

20 “(a) A judicial officer;

21 “(b) A county clerk;

22 “(c) Religious congregations or organizations as indicated in ORS 106.150
23 (2); or

24 “(d) A clergyperson of any religious congregation or organization who is
25 authorized by the congregation or organization to solemnize marriages.

26 “(3) A person authorized to solemnize marriages under subsection (2) of
27 this section may solemnize a marriage anywhere in this state.

28 “(4)(a) When a marriage is solemnized by a tax, appellate or circuit judge
29 of this state, the clerk of the court or the county clerk shall collect a fee
30 of [~~\$105~~] **\$110** and deposit the fee in the Judicial Department Operating Ac-

1 count established in ORS 1.009.

2 “(b) When a marriage is solemnized by a county clerk, the county clerk
3 shall collect a fee of [~~\$105~~] **\$110**, as provided in ORS 205.320.

4 “(c) The fee described in this subsection may be collected only if:

5 “(A) The marriage is solemnized during normal working hours, excluding
6 holidays;

7 “(B) The marriage is solemnized in court facilities or a county clerk’s
8 office; or

9 “(C) More than a minimal amount of staff time or other court or county
10 clerk’s office resources are used in connection with the solemnization.

11 “(d) The Chief Justice of the Supreme Court or the county clerk may es-
12 tablish a written procedure for waiver of the fee required under this sub-
13 section in exigent circumstances, including but not limited to indigency of
14 the parties to the marriage.

15 “(5) In addition to any fee collected under subsection (4) of this section,
16 a judicial officer of this state and a county clerk may charge and accept an
17 agreed upon personal payment not to exceed \$100 plus actual costs for the
18 solemnization of a marriage if that solemnization is performed:

19 “(a) At a place other than the courthouse where the judicial officer or
20 county clerk serves; or

21 “(b) Outside of the judicial officer’s or county clerk’s normal working
22 hours.

23 “(6) The charging and accepting of a personal payment by a judicial offi-
24 cer of this state or a county clerk under subsection (5) of this section does
25 not constitute a violation of any of the provisions of ORS chapter 244.

26 “(7) The amount of actual costs charged by a judicial officer of this state
27 or a county clerk under subsection (5) of this section may not exceed:

28 “(a) Actual expenses for food and lodging as verified by receipts.

29 “(b) If travel is made by personal vehicle, the actual number of round-trip
30 miles from the judicial officer’s or county clerk’s home or office, whichever

1 is greater, compensated at the rate of reimbursement then provided by the
2 State of Oregon to its employees or, if travel is made by a commercial car-
3 rier, reimbursement shall be made of the actual costs thereof, verified by
4 receipts.

5 “(8) A judicial officer of this state or a county clerk shall maintain re-
6 cords of the amount of personal payments received for performing marriages,
7 of actual costs and the supporting documentation related thereto for a period
8 of four years.

9 “(9) The parties to a marriage solemnized by a tax, appellate or circuit
10 judge of this state shall show to the judge proof of payment of the fee re-
11 quired under subsection (4)(a) of this section before solemnization. Except
12 as provided in subsection (4)(d) of this section, the judge may not solemnize
13 a marriage without proof of payment of the fee.

14 **“SECTION 23.** ORS 205.320 is amended to read:

15 “205.320. (1) In every county there shall be charged and collected in ad-
16 vance by the county clerk, for the benefit of the county, the following fees,
17 and no more, for the following purposes and services:

18 “(a) For filing and making entry when required by law of any instrument
19 required or permitted by law to be filed, when it is not recorded, \$5 for each
20 page.

21 “(b) For filing and making entry of the assignment or satisfaction of any
22 filed, but not recorded, instrument, \$5 for each page.

23 “(c) For each official certificate, \$3.75.

24 “(d)(A) For recording any instrument required or permitted by law to be
25 recorded, \$5 for each page, but the minimum fee shall not be less than \$5.
26 As used in this subparagraph, ‘page’ means one side of a sheet 14 inches, or
27 less, long and 8-1/2 inches, or less, wide.

28 “(B) For supplying to private parties copies of records or files, not more
29 than \$3.75 for locating a record requested by the party and 25 cents for each
30 page. As used in this subparagraph, ‘page’ means one side of a sheet 14

1 inches, or less, long and 8-1/2 inches, or less, wide.

2 “(C) For each official certificate, \$3.75.

3 “(e) For taking an affidavit for and making and issuing a marriage license
4 and registering the return of the license, or for taking an affidavit for and
5 registering a Declaration of Domestic Partnership, \$25.

6 “(f) For solemnizing a marriage under ORS 106.120, [~~\$105~~] **\$110**. This par-
7 agraph does not require that the county clerk charge a fee for solemnizing
8 a marriage after normal working hours or on Saturdays or legal holidays.
9 This paragraph does not prohibit a county clerk from charging and accepting
10 a personal payment for solemnizing a marriage if otherwise authorized by
11 ORS 106.120.

12 “(g) For taking and certifying acknowledgment or proof of execution of
13 any instrument, the fee established in the schedule adopted by the Secretary
14 of State under ORS 194.400.

15 “(h) For issuing any license required by law, other than a marriage or
16 liquor license, and for which no fee is otherwise provided by law, \$5.

17 “(i) For any service the clerk may be required or authorized to perform
18 and for which no fee is provided by law, such fees as may favorably compare
19 with those established by this section for similar services and as may be es-
20 tablished by order or rule of the county court or board of county commis-
21 sioners.

22 “(j) For recording any instrument under ORS 205.130 (2), as required by
23 ordinance pursuant to ORS 203.148.

24 “(k) In addition to and not in lieu of the fees charged under paragraph
25 (d) of this subsection, for each additional municipal assessment lien recorded
26 under ORS 93.643, \$5.

27 “(L) In addition to and not in lieu of the fees charged under paragraph
28 (d) of this subsection, for each additional assignment, release or satisfaction
29 of any recorded instrument, \$5.

30 “(m) In addition to and not in lieu of the fees charged under paragraph

1 (d) of this subsection, for each additional transaction described under ORS
2 205.236, \$5.

3 “(n) In addition to and not in lieu of the fees charged under paragraph
4 (d) of this subsection, for each additional lien recorded under ORS 311.675,
5 \$5.

6 “(o) For preparing and recording the certificate under ORS 517.280, \$20
7 or such other fee that is established by the county governing body.

8 “(p) In addition to and not in lieu of the fees charged under paragraph
9 (d) of this subsection, for each additional claim listed on an affidavit of an-
10 nual compliance under ORS 517.210, \$5.

11 “(q) In addition to and not in lieu of the fees charged under paragraph
12 (d) of this subsection, for each additional name listed on a cooperative con-
13 tract under ORS 62.360 (2) or for recording the termination of a cooperative
14 contract under ORS 62.360 (4), \$5.

15 “(2) Notwithstanding any other law, five percent of any fee or tax that
16 is not collected for the benefit of the county clerk shall be deducted from the
17 fee or tax. The moneys deducted shall be expended for acquiring storage and
18 retrieval systems, payment of expenses incurred in collecting the fee or tax
19 and maintaining and restoring records as authorized by the county clerk.
20 Moneys collected under this subsection shall be deposited in a county clerk
21 records fund established by the county governing body. No moneys shall be
22 deducted under this subsection from:

23 “(a) Fees collected for the Domestic Violence Fund under ORS 106.045.

24 “(b) Fees collected for conciliation services under ORS 107.615.

25 “(c) Real estate transfer taxes enacted prior to January 1, 1998.

26 “(d) Fees collected under ORS 205.323 for the Oregon Land Information
27 System Fund.

28 “(e) Fees collected under ORS 205.323 (1)(c) for the housing-related pro-
29 grams listed in ORS 294.187 (2)(b).

30 **SECTION 24. The amendments to ORS 106.120 and 205.320 by**

1 sections 22 and 23 of this 2017 Act apply to marriages solemnized on
2 or after October 1, 2017.

3

4

“STATE COURT TECHNOLOGY FUND

5

6 **“SECTION 25.** ORS 21.006 is amended to read:

7 “21.006. Notwithstanding ORS 21.005, each month the State Court Ad-
8 ministrator shall transfer to the State Court Technology Fund [4.75] _____
9 percent of the fees collected by the State Court Administrator under ORS
10 21.010, 21.135, 21.145, 21.155, 21.160, 21.170, 21.180, 21.235, 46.570, 105.130 and
11 106.120.

12 **“SECTION 26.** The amendments to ORS 21.006 by section 25 of this
13 2017 Act apply to fees collected on or after October 1, 2017.

14

15

“CAPTIONS

16

17 **“SECTION 27.** The unit captions used in this 2017 Act are provided
18 only for the convenience of the reader and do not become part of the
19 statutory law of this state or express any legislative intent in the
20 enactment of this 2017 Act.

21

22

“EMERGENCY CLAUSE

23

24 **“SECTION 28.** This 2017 Act being necessary for the immediate
25 preservation of the public peace, health and safety, an emergency is
26 declared to exist, and this 2017 Act takes effect on its passage.”.

27
