

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2795**

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

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

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

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

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

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

8 On page 4, after line 20, insert:

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

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

17 “(2) If the judgment debtor shows the court of any county any ground  
18 upon which enforcement of a judgment of any court of any county of this  
19 state would be stayed, the court shall stay enforcement of the foreign judg-  
20 ment for an appropriate period, upon requiring the same security for satis-  
21 faction of the judgment which is required in this state.

1 “(3) Any person making an appearance in proceedings related to foreign  
2 judgments filed under ORS 24.115, including a judgment debtor filing a pro-  
3 ceeding seeking a stay of judgment under this section or otherwise seeking  
4 relief from enforcement of the judgment, must pay the filing fee established  
5 under ORS [21.135] **21.160 (1)(a).**”.

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

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

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

9 On page 12, after line 10, insert:  
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11 **“PREVAILING PARTY FEES**  
12

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

14 “20.190. (1) Except as provided in subsections (2) to (5) of this section, a  
15 prevailing party in a civil action or proceeding who has a right to recover  
16 costs and disbursements in the following cases also has a right to recover,  
17 as a part of the costs and disbursements, the following additional amounts:

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

19 “(b) In a circuit court:

20 “(A) When judgment is given without trial of an issue of law or fact or  
21 on an appeal, \$85; or

22 “(B) When judgment is given after trial of an issue of law or fact, \$105.

23 “(c) In a small claims department, a county court or justice court:

24 “(A) When judgment is given without trial of an issue of law or fact or  
25 on an appeal, \$50; or

26 “(B) When judgment is given after trial of an issue of law or fact, \$60.

27 “(2) In lieu of the prevailing party fee provided for in subsection (1) of  
28 this section, in any civil action or proceeding in which recovery of money  
29 or damages is sought, a prevailing party who has a right to recover costs  
30 and disbursements also has a right to recover, as a part of the costs and

1 disbursements, the following additional amounts:

2 “(a) In a circuit court:

3 “(A) When judgment is given without trial of an issue of law or fact,  
4 [~~\$300~~] **\$325**; or

5 “(B) When judgment is given after trial of an issue of law or fact, [~~\$575~~]  
6 **\$600**.

7 “(b) In a small claims department, a county court or justice court:

8 “(A) When judgment is given without trial of an issue of law or fact,  
9 [~~\$100~~] **\$110**; or

10 “(B) When judgment is given after trial of an issue of law or fact, [~~\$115~~]  
11 **\$125**.

12 “(3) In addition to the amounts provided for in subsection (2) of this sec-  
13 tion, in any civil action or proceeding in a circuit court in which recovery  
14 of money or damages is sought, the court may award to the prevailing party  
15 up to an additional \$5,000 as a prevailing party fee. The court shall consider  
16 the following factors in making an award under the provisions of this sub-  
17 section:

18 “(a) The conduct of the parties in the transactions or occurrences that  
19 gave rise to the litigation, including any conduct of a party that was reck-  
20 less, willful, malicious, in bad faith or illegal.

21 “(b) The objective reasonableness of the claims and defenses asserted by  
22 the parties.

23 “(c) The extent to which an award of a larger prevailing party fee in the  
24 case would deter others from asserting good faith claims or defenses in sim-  
25 ilar cases.

26 “(d) The extent to which an award of a larger prevailing party fee in the  
27 case would deter others from asserting meritless claims and defenses.

28 “(e) The objective reasonableness of the parties and the diligence of the  
29 parties and their attorneys during the proceedings.

30 “(f) The objective reasonableness of the parties and the diligence of the

1 parties in pursuing settlement of the dispute.

2 “(g) Any award of attorney fees made to the prevailing party as part of  
3 the judgment.

4 “(h) Such other factors as the court may consider appropriate under the  
5 circumstances of the case.

6 “(4) Nonprevailing parties are jointly liable for the prevailing party fees  
7 provided for in this section. A court may not award more than one prevailing  
8 party fee to a prevailing party under this section, or more than one prevail-  
9 ing party fee against a nonprevailing party regardless of the number of par-  
10 ties in the action, and, upon being paid the amount of the award, the  
11 prevailing party may not seek recovery of any additional amounts under the  
12 provisions of this section from any other nonprevailing party.

13 “(5) In any appeal from the award or denial of a prevailing party fee un-  
14 der subsection (2) of this section, the court reviewing the award may not  
15 modify the decision of the court in making or denying an award, or the de-  
16 cision of the court as to the amount of the award, except upon a finding of  
17 an abuse of discretion.

18 “(6) The prevailing party fees provided for in this section may not be  
19 awarded in the following proceedings:

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

21 “(b) A condemnation proceeding.

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

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

26 **“SECTION 26. The amendments to ORS 20.190 by section 25 of this  
27 2017 Act apply to actions commenced on or after October 1, 2017.”.**

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

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

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

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

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

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