

Requested by JOINT COMMITTEE ON THE FIRST SPECIAL SESSION OF 2020

**PROPOSED AMENDMENTS TO
HOUSE BILL 4212**

1 On page 3 of the printed bill, delete lines 14 through 45 and delete page
2 4.

3 On page 5, delete lines 1 through 41 and insert:

4 **“SECTION 3.** ORS 18.784 is amended to read:

5 “18.784. (1) Except as provided in subsection (6) of this section, if a writ
6 of garnishment is delivered to a financial institution that has an account of
7 the debtor, the financial institution shall conduct a garnishment account
8 review of all accounts in the name of the debtor before taking any other
9 action that may affect funds in those accounts. If the financial institution
10 determines from the garnishment account review that one or more payments
11 described in subsection (3) of this section were deposited in an account of
12 the debtor by direct deposit or electronic payment during the lookback pe-
13 riod described in subsection (2) of this section, an amount equal to the lesser
14 of the sum of those payments or the total balance in the debtor’s account is
15 not subject to garnishment.

16 “(2)(a) The provisions of this section apply [*only*] to payments described
17 in subsection (3)(a) to (f) of this section that are deposited during the
18 lookback period that ends on the day before the day on which the
19 garnishment account review is conducted and begins on:

20 “[*(a)*] (A) The day in the second calendar month preceding the month in
21 which the garnishment account review is conducted, that has the same

1 number as the day on which the period ends; or

2 “[*(b)*] **(B)** If there is no day as described in [*paragraph (a) of this sub-*
3 *section,*] **subparagraph (A) of this paragraph**, the last day of the second
4 calendar month preceding the month in which the garnishment account re-
5 view is conducted.

6 **“(b) The provisions of this section apply to payments described in**
7 **subsection (3)(g) of this section that are deposited during the lookback**
8 **period that ends on the day before the day on which the garnishment**
9 **account review is conducted and begins on March 8, 2020.**

10 “(3) The provisions of this section apply only to:

11 “(a) Federal benefit payments;

12 “(b) Payments from a public or private retirement plan as defined in ORS
13 18.358;

14 “(c) Public assistance or medical assistance, as defined in ORS 414.025,
15 payments from the State of Oregon or an agency of the State of Oregon;

16 “(d) Unemployment compensation payments from the State of Oregon or
17 an agency of the State of Oregon;

18 “(e) Black lung benefits payments from the United States Department of
19 Labor; [*and*]

20 “(f) Workers’ compensation payments from a workers’ compensation
21 carrier[.]; **and**

22 **“(g) Recovery rebate payments made under section 2201(a) of the**
23 **Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136)**
24 **deposited in an account of the debtor at any time, unless:**

25 **“(A) The writ of garnishment is issued to collect:**

26 **“(i) A judgment in a criminal action that requires the defendant to**
27 **pay restitution; or**

28 **“(ii) A civil judgment against a person who has been convicted of**
29 **a crime if the civil judgment is based on the same underlying facts as**
30 **the conviction; and**

1 **“(B) The writ of garnishment contains the following statement:**
2 **‘This Garnishment Has Been Issued to Collect a Criminal Money**
3 **Judgment that Awards Restitution or a Civil Judgment Based on a**
4 **Criminal Offense’.**

5 “(4) The provisions of this section apply only to a payment that a finan-
6 cial institution can identify as being one of the types of payments described
7 in subsection (3) of this section from information transmitted to the financial
8 institution by the payor.

9 “(5) A financial institution shall perform a garnishment account review
10 only one time for a specific garnishment. If the same garnishment is served
11 on a financial institution more than once, the financial institution may not
12 perform a garnishment account review or take any other action relating to
13 the garnishment based on the second and subsequent service of the
14 garnishment.

15 “(6) A financial institution may not conduct a garnishment account re-
16 view under this section if a Notice of Right to Garnish Federal Benefits from
17 the United States Government or from a state child support enforcement
18 agency is attached to or included in the garnishment as provided in 31 C.F.R.
19 part 212. If a Notice of Right to Garnish Federal Benefits is attached to or
20 included in the garnishment, the financial institution shall proceed on the
21 garnishment as otherwise provided in ORS 18.600 to 18.850.

22 “(7) The provisions of this section do not affect the ability of a debtor to
23 claim any exemption that otherwise may be available to the debtor under law
24 for any amounts in an account in a financial institution.

25 **“SECTION 4.** ORS 18.784, as amended by section 3 of this 2020 special
26 session Act, is amended to read:

27 “18.784. (1) Except as provided in subsection (6) of this section, if a writ
28 of garnishment is delivered to a financial institution that has an account of
29 the debtor, the financial institution shall conduct a garnishment account
30 review of all accounts in the name of the debtor before taking any other

1 action that may affect funds in those accounts. If the financial institution
2 determines from the garnishment account review that one or more payments
3 described in subsection (3) of this section were deposited in an account of
4 the debtor by direct deposit or electronic payment during the lookback pe-
5 riod described in subsection (2) of this section, an amount equal to the lesser
6 of the sum of those payments or the total balance in the debtor’s account is
7 not subject to garnishment.

8 “(2)[(a)] The provisions of this section apply only to payments described
9 in subsection (3)[(a) to (f)] of this section that are deposited during the
10 lookback period that ends on the day before the day on which the
11 garnishment account review is conducted and begins on:

12 “[A] (a) The day in the second calendar month preceding the month in
13 which the garnishment account review is conducted, that has the same
14 number as the day on which the period ends; or

15 “[B] (b) If there is no day as described in [subparagraph (A) of this
16 paragraph,] **paragraph (a) of this subsection**, the last day of the second
17 calendar month preceding the month in which the garnishment account re-
18 view is conducted.

19 “[b] *The provisions of this section apply to payments described in sub-*
20 *section (3)(g) of this section that are deposited during the lookback period that*
21 *ends on the day before the day on which the garnishment account review is*
22 *conducted and begins on March 8, 2020.]*

23 “(3) The provisions of this section apply only to:

24 “(a) Federal benefit payments;

25 “(b) Payments from a public or private retirement plan as defined in ORS
26 18.358;

27 “(c) Public assistance or medical assistance, as defined in ORS 414.025,
28 payments from the State of Oregon or an agency of the State of Oregon;

29 “(d) Unemployment compensation payments from the State of Oregon or
30 an agency of the State of Oregon;

1 “(e) Black lung benefits payments from the United States Department of
2 Labor; **and**

3 “(f) Workers’ compensation payments from a workers’ compensation
4 carrier[; *and*].

5 “[*(g) Recovery rebate payments made under section 2201(a) of the*
6 *Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136) deposited*
7 *in an account of the debtor at any time, unless:*]

8 “[*(A) The writ of garnishment is issued to collect:*]

9 “[*(i) A judgment in a criminal action that requires the defendant to pay*
10 *restitution; or*]

11 “[*(ii) A civil judgment against a person who has been convicted of a crime*
12 *if the civil judgment is based on the same underlying facts as the conviction;*
13 *and*]

14 “[*(B) The writ of garnishment contains the following statement: ‘This*
15 *Garnishment Has Been Issued to Collect a Criminal Money Judgment that*
16 *Awards Restitution or a Civil Judgment Based on a Criminal Offense’.*]

17 “(4) The provisions of this section apply only to a payment that a finan-
18 cial institution can identify as being one of the types of payments described
19 in subsection (3) of this section from information transmitted to the financial
20 institution by the payor.

21 “(5) A financial institution shall perform a garnishment account review
22 only one time for a specific garnishment. If the same garnishment is served
23 on a financial institution more than once, the financial institution may not
24 perform a garnishment account review or take any other action relating to
25 the garnishment based on the second and subsequent service of the
26 garnishment.

27 “(6) A financial institution may not conduct a garnishment account re-
28 view under this section if a Notice of Right to Garnish Federal Benefits from
29 the United States Government or from a state child support enforcement
30 agency is attached to or included in the garnishment as provided in 31 C.F.R.

1 part 212. If a Notice of Right to Garnish Federal Benefits is attached to or
2 included in the garnishment, the financial institution shall proceed on the
3 garnishment as otherwise provided in ORS 18.600 to 18.850.

4 “(7) The provisions of this section do not affect the ability of a debtor to
5 claim any exemption that otherwise may be available to the debtor under law
6 for any amounts in an account in a financial institution.

7 **“SECTION 5. (1) The amendments to ORS 18.784 by section 4 of this**
8 **2020 special session Act become operative on January 1, 2021.**

9 **“(2) The amendments to ORS 18.784 by section 3 of this 2020 special**
10 **session Act apply to garnishments issued on or before the operative**
11 **date specified in subsection (1) of this section.”.**

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