

House Bill 2008

Sponsored by Representative RAYFIELD, Senators WAGNER, TAYLOR, Representative GOMBERG, Senator MANNING JR; Representatives GAMBA, HUDSON, LIVELY, NELSON, SOSA, Senators DEMBROW, GORSEK, PATTERSON

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 **as introduced**.

Specifies property and funds of judgment debtor that are exempt from execution or garnishment.
Permits plaintiff to bring action, including class action, for unlawful debt collection practice within six years after discovering unlawful practice and increases amount of recoverable statutory damages.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to protections from debt collection; creating new provisions; amending ORS 18.345, 18.348,
3 18.385, 18.395, 18.402, 18.412, 18.785, 18.840, 18.845, 18.855, 87.162, 646.639 and 646.641; repealing
4 ORS 646.643; and prescribing an effective date.

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

6 **SECTION 1.** ORS 18.345 is amended to read:

7 18.345. (1)(a) All property **of the judgment debtor**, including franchises, or rights or interest
8 *[therein, of the judgment debtor, shall be]* **in the judgment debtor's property, is** liable to an exe-
9 cution, except as provided in this section and in other statutes granting exemptions from execution.
10 The following property **of the judgment debtor**, or rights or interest *[therein of the judgment*
11 *debtor]* **in the property**, except as provided in ORS 18.305, *[shall be]* **is exempt from execution:**

12 *[(a) Books, pictures and musical instruments to the value of \$600.]*

13 *[(b) Wearing apparel, jewelry and other personal items to the value of \$1,800.]*

14 *[(c) The tools, implements, apparatus, team, harness or library, necessary to enable the judgment*
15 *debtor to carry on the trade, occupation or profession by which the judgment debtor habitually earns*
16 *a living, to the value of \$5,000.]*

17 *[(d) A vehicle to the value of \$3,000. As used in this paragraph "vehicle" includes an automobile,*
18 *truck, trailer, truck and trailer or other motor vehicle.]*

19 *[(e) Domestic animals and poultry kept for family use, to the total value of \$1,000 and food suffi-*
20 *cient to support such animals and poultry for 60 days.]*

21 *[(f) Household goods, furniture, radios, a television set and utensils all to the total value of \$3,000,*
22 *if the judgment debtor holds the property primarily for the personal, family or household use of the*
23 *judgment debtor; provisions actually provided for family use and necessary for the support of a*
24 *householder and family for 60 days and also 60 days' supply of fuel.]*

25 **(A) All household goods of the judgment debtor and the judgment debtor's dependents,**
26 **except individual items that a court determines have a value of more than \$3,000, including**
27 **but not limited to:**

28 **(i) Appliances, cookware, dishes and utensils for storing food and preparing meals, such**

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 as a refrigerator, stove, microwave oven or other kitchen appliance;

2 (ii) Food and other provisions, including medical devices, prescribed health aids and
3 medications;

4 (iii) Cleaning appliances such as a clothes washer and dryer and vacuum cleaner;

5 (iv) Equipment for maintaining a yard;

6 (v) Radios and a television;

7 (vi) Household equipment and tools necessary to operate, maintain or repair a home, in-
8 cluding heating and cooling appliances and fuel for the appliances, air cleaners and security
9 devices and equipment; and

10 (vii) All personal possessions, including books, clothing, pets, personal health aids, mu-
11 sical instruments, toys and recreational items, computers and similar electronic devices and
12 telephones and one item of jewelry regardless of price.

13 (B) Tools, books, software, subscriptions, accounts, electronically stored data, instru-
14 ments, motor vehicles, machines and equipment that the judgment debtor uses or may use
15 to engage in or search for employment, except that a court may allow execution for specific
16 items if the court finds from probative evidence that the aggregate value of items listed in
17 this subparagraph that belong to the judgment debtor exceeds \$30,000 or, for farm tools,
18 equipment, crops and animals, the value exceeds \$50,000 and the court permits the judgment
19 debtor to specify individual items that are exempt from execution.

20 (C) A motor vehicle or an interest in a motor vehicle up to a value of \$15,000 or, if the
21 motor vehicle has been adapted for special use to assist with a disability of the judgment
22 debtor or a dependent of the judgment debtor, up to a value of \$25,000.

23 [(g)] (D) All property of the state or any county or incorporated city therein, or of any other
24 public or municipal corporation of like character.

25 [(h) *All professionally prescribed health aids for the debtor or a dependent of the debtor.*]

26 [(i)] (E) Spousal support, child support, or separate maintenance to the extent reasonably nec-
27 essary for the support of the debtor and any dependent of the debtor.

28 [(j)] (F) The debtor's right to receive, or property that is traceable to, an award under any crime
29 victim reparation law.

30 [(k)] (G) The debtor's right to receive, or property that is traceable to, a payment or payments,
31 not to exceed a total of \$10,000, on account of personal bodily injury of the debtor or an individual
32 of whom the debtor is a dependent.

33 [(L)] (H) The debtor's right to receive, or property that is traceable to, a payment in compen-
34 sation of loss of future earnings of the debtor or an individual of whom the debtor is or was a de-
35 pendent, to the extent reasonably necessary for the support of the debtor and any dependent of the
36 debtor.

37 [(m)] (I) Veterans' benefits and loans.

38 [(n)] (J) The debtor's right to receive an earned income tax credit under the federal tax laws
39 and any moneys that are traceable to a payment of an earned income tax credit under the federal
40 tax laws.

41 [(o)] (K) The debtor's right to the assets held in, or right to receive payments under, a medical
42 savings account or health savings account authorized under section 220 or 223 of the Internal Re-
43 venue Code.

44 [(p)] (L) The debtor's interest, not to exceed [\$400] **\$1,500** in value, in any personal property.
45 [*However, this exemption may not be used to increase the amount of any other exemption.*]

1 **(M) Any interest in an annuity, retirement account, including inherited individual re-**
 2 **tirement accounts, pension fund, stock bonus, profit-sharing plan or similar plans or con-**
 3 **tracts that provide benefits by reason of age, illness, disability or length of service and that**
 4 **derive from inheritance, designation, appointment or otherwise or are payable to the judg-**
 5 **ment debtor or a dependent of the judgment debtor as an insured or beneficiary, up to a**
 6 **value of \$1.5 million, plus an additional \$1.5 million for each of the judgment debtor's de-**
 7 **pendents, less amounts that each dependent holds or is due from other sources of mainte-**
 8 **nance and support, including the proceeds of a life insurance policy.**

9 **(N) Proceeds from a loan from the United States Small Business Administration or an-**
 10 **other source as support for a small business, unless the judgment debtor borrowed for the**
 11 **purpose of paying the judgment.**

12 **(O) Amounts in savings accounts created under the provisions of the Achieving a Better**
 13 **Life Experience Act of 2014 (Division B of P.L. 113-295) or other accounts for individuals with**
 14 **disabilities, up to \$1.5 million per beneficiary, whether paid or payable.**

15 **(b) The amounts specified as maximum limits on exemptions in paragraph (a) of this**
 16 **subsection must be indexed annually to reflect increases or decreases in the cost of living**
 17 **for the previous calendar year, based on changes in the Consumer Price Index for All Urban**
 18 **Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the**
 19 **United States Department of Labor or a successor agency. The State Court Administrator**
 20 **shall adjust the exemption limitations specified in paragraph (a) of this subsection each year**
 21 **on July 1 and the limitations must apply for the following calendar year.**

22 (2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of
 23 which the execution issued to be of a value in excess of that allowed by the appropriate [*paragraph*
 24 *of subsection (1)*] **subparagraph of subsection (1)(a)** of this section, the officer seizing the property
 25 shall proceed to sell such property. Out of the proceeds of such sale, the officer shall deduct costs
 26 of sale and shall pay to the judgment debtor an amount equivalent to the value declared to be ex-
 27 empt by any of the [*paragraphs of subsection (1)*] **subparagraphs of subsection (1)(a)** of this section
 28 and shall apply the balance of the proceeds of sale on the execution. A sale may not be made under
 29 such execution unless the highest bid made exceeds the appropriate exemption claimed and allowed
 30 plus costs of sale. If no bid is received in excess of the value allowed by the appropriate [*paragraph*
 31 *of subsection (1)*] **subparagraph of subsection (1)(a)** of this section, the costs of sale shall be borne
 32 by the judgment creditor.

33 (3) If two or more members of a household are joint judgment debtors, each judgment debtor
 34 shall be entitled to claim the exemptions in subsection [(1)(a), (b), (c), (d) and (p)] (1) of this section
 35 in the same or different properties. The exemptions provided by subsection [(1)(a), (b), (c), (d), (j), (k)
 36 *and (p)*] (1) of this section, when claimed for jointly owned property, may be combined at the option
 37 of the debtors.

38 (4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or
 39 other execution is issued to collect past due support as defined in ORS 18.600, 50 percent of unem-
 40 ployment compensation benefits, workers' compensation benefits and other benefits paid to the
 41 debtor by the United States, by the state or by a political subdivision of the state are exempt. The
 42 exemption related to unemployment compensation benefits provided by this subsection is subject to
 43 ORS 657.855. The exemption provided by this subsection applies without regard to whether the
 44 payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to
 45 a settlement or judgment. Notwithstanding subsection [(1)(k)] (1)(a)(G) of this section, if a payment

1 is made under a settlement or judgment on account of personal bodily injury and the garnishment
 2 or other execution is issued to collect past due support as defined in ORS 18.600, the lesser of 50
 3 percent of the payment or \$7,500 is exempt.

4 **SECTION 2.** ORS 18.348 is amended to read:

5 18.348. (1) Funds that are exempt from execution under ORS 18.358, 18.385, 178.345, 238.445,
 6 344.580, 407.595, 411.760, 414.095, 655.530, 656.234, 657.855 and 748.207 remain exempt when deposited
 7 in an account in a financial institution as long as the exempt funds are reasonably identifiable.

8 (2) Subsection (1) of this section does not apply to any accumulation of funds greater than
 9 ~~[\$7,500]~~ **\$15,000, unless the funds are exempt from execution under ORS 18.345 (1)(a)(E) to (K),**
 10 **(M) and (O), in which case the funds are exempt from execution to the extent set forth in**
 11 **the applicable exemption.**

12 (3) All funds that are exempt under federal law remain exempt when deposited in an account in
 13 a financial institution as long as the exempt funds are reasonably identifiable.

14 (4) The application of subsections (1) and (3) of this section is not affected by the commingling
 15 of exempt and nonexempt funds in an account. For the purpose of identifying exempt funds in an
 16 account, first in, first out accounting principles *[shall]* **must** be used.

17 (5) The provisions of this section do not affect the duties of a garnishee with respect to amounts
 18 in accounts that are not subject to garnishment under ORS 18.784.

19 **SECTION 3.** ORS 18.385 is amended to read:

20 18.385. (1) Except as provided in this section, ~~[75]~~ **85** percent of the disposable earnings of an
 21 individual are exempt from execution.

22 (2) The disposable earnings of an individual are exempt from execution to the extent that pay-
 23 ment under a garnishment would result in net disposable earnings for an individual of less than the
 24 following amounts:

- 25 (a) ~~[\$254]~~ **\$1,000** for any period of one week or less;
- 26 (b) ~~[\$509]~~ **\$2,000** for any two-week period;
- 27 (c) ~~[\$545]~~ **\$2,200** for any half-month period;
- 28 (d) ~~[\$1,090]~~ **\$4,000** for any one-month period; and
- 29 (e) For any other period longer than one week, ~~[\$254]~~ **\$1,000** multiplied by that fraction produced
 30 by dividing the number of days for which the earnings are paid by seven. The amount calculated
 31 under this paragraph must be rounded to the nearest dollar.

32 (3) If an individual is paid for a period shorter than one week **or receives less than \$1,000**
 33 **during any week**, the *[exemption calculated under subsection (2) of this section may not exceed \$254*
 34 *for any one-week period]* **entire amount of the payment the debtor receives during that week**
 35 **is exempt from execution. If the individual's pay period is longer than one week but the**
 36 **amount the individual receives exceeds \$1,000 during one of the weeks of the pay period, not**
 37 **more than 10 percent of the amount by which the payment exceeds \$1,000 during the week**
 38 **is subject to garnishment, unless the amount the individual receives during one of the weeks**
 39 **exceeds \$1,200, in which case not more than 15 percent of the amount by which the payment**
 40 **exceeds \$1,000 during the week is subject to garnishment.**

41 (4) **The exemption amounts specified in subsections (2) and (3) of this section must be**
 42 **indexed annually to reflect increases in the cost of living for the previous calendar year,**
 43 **based on changes in the Consumer Price Index for All Urban Consumers, West Region (All**
 44 **Items), as published by the Bureau of Labor Statistics of the United States Department of**
 45 **Labor or a successor agency. The State Court Administrator shall adjust the exemption**

1 **amounts specified in subsections (2) and (3) of this section each year on July 1 and the new**
 2 **exemption amounts must apply for the following calendar year.**

3 [(4)] (5) An employer shall deduct from the amount of disposable earnings determined to be
 4 nonexempt under subsections (1) to (3) of this section any amounts withheld from the individual's
 5 earnings for the same period of time under an order issued pursuant to ORS 25.378 or 419B.408 or
 6 ORS chapter 110. The employer shall make payment under a garnishment only of those amounts
 7 remaining after the deduction is made.

8 [(5)] (6) Subsections (1) to [(4)] (5) of this section do not apply to:

9 (a) Any order of a court of bankruptcy.

10 (b) Any debt due for federal tax.

11 [(6)] (7) Subsections (2) to [(4)] (5) of this section do not apply to any debt due for state tax.
 12 Subsection (1) of this section does not apply to a debt due for state tax if a state agency issues a
 13 special notice of garnishment under ORS 18.855 (6).

14 [(7)] (8) A court may not make, execute or enforce any order or process in violation of this
 15 section.

16 [(8)] (9) Any waiver by an individual of the provisions of this section is void.

17 [(9)] (10) An employer may not discharge any individual because the individual has had earnings
 18 garnished.

19 **SECTION 4.** ORS 18.395 is amended to read:

20 18.395. (1)(a) A homestead *[shall be]* **is** exempt from sale on execution, from the lien of every
 21 judgment and from liability in any form for the debts of the owner to the amount in value of
 22 *[\$40,000]* **the median housing price for single-family dwellings in the county in which the**
 23 **homestead is located**, except as otherwise provided by law. The exemption *[shall be]* **is** effective
 24 without the necessity of a claim thereof by the judgment debtor. **The State Court Administrator**
 25 **shall determine the median housing price from valid and reputable published sources each**
 26 **July 1 and the median price shall apply for the following calendar year.**

27 (b) *[When]* **If** two or more members of a household are debtors whose interests in the homestead
 28 are subject to sale on execution, the lien of a judgment or liability in any form, *[their combined ex-*
 29 *emptions under this section shall not exceed \$50,000]* **the combined exemptions of the judgment**
 30 **debtors may not exceed the amount specified in paragraph (a) of this subsection plus 50**
 31 **percent for each judgment debtor's spouse, parent or child that resides in the homestead,**
 32 **even if the spouse, parent or child does not have an ownership interest in the homestead.**

33 (c) The homestead must be the actual abode of and occupied by the owner, or the owner's
 34 spouse, parent or child, but the exemption *[shall]* **is** not *[be]* impaired by:

35 [(a)] (A) Temporary removal or temporary absence with the intention to reoccupy the same as
 36 a homestead;

37 [(b)] (B) Removal or absence from the property; or

38 [(c)] (C) The sale of the property.

39 (2) The exemption *[shall extend]* **extends** to the proceeds derived from such sale to *[an amount*
 40 *not exceeding \$40,000 or \$50,000, whichever amount is]* **the amount that is** applicable under sub-
 41 section (1) of this section, if the proceeds are held for a period not exceeding *[one year]* **two years**
 42 and held with the intention to procure another homestead therewith.

43 (3) The exemption period under subsection *[(1)(b) and (c)]* **(1)(c)(B) and (C)** of this section *[shall*
 44 *be]* **is** one year from the removal, absence or sale, whichever occurs first.

45 (4) When the owner of a homestead has been granted a discharge in bankruptcy or has conveyed

1 the homestead property, the value thereof, for the purpose of determining a leviable interest in ex-
 2 cess of the homestead exemption, *[shall be]* **is** the value on the date of the petition in bankruptcy,
 3 whether the value is determined in the bankruptcy proceedings or not, or on the date the
 4 conveyance becomes effective, whichever *[shall]* **occurs** first *[occur]*. However, with respect to
 5 judgments not discharged in the bankruptcy, or entered against the owner after discharge, the value
 6 on the effective date of conveyance *[shall be controlling]* **controls**.

7 (5) Except as provided in subsection (7) of this section, *[no]* **a** homestead that is the actual abode
 8 of and occupied by the judgment debtor, or that is the actual abode of and occupied by a spouse,
 9 dependent parent or dependent child of the judgment debtor, *[shall]* **may not** be sold on execution
 10 to satisfy a judgment that at the time of entry does not exceed \$3,000. However, such judgment
 11 *[shall remain]* **remains** a lien upon the real property, and the property may be sold on execution:

12 (a) At any time after the sale of the property by the judgment debtor; and

13 (b) At any time after the property is no longer the actual abode of and occupied by the judgment
 14 debtor or the spouse, dependent parent or dependent child of the judgment debtor.

15 (6) The limitation on execution sales imposed by subsection (5) of this section is not impaired
 16 by temporary removal or temporary absence with the intention to reoccupy the property as a
 17 homestead.

18 (7) The limitation on execution sales imposed by subsection (5) of this section does not apply if
 19 two or more judgments are owing to a single judgment creditor and the total amount owing to the
 20 judgment creditor, determined by adding the amount of each individual judgment as of the date the
 21 judgment was entered, is greater than \$3,000.

22 (8) Upon the issuance of an order authorizing sale as required by ORS 18.904, and in conform-
 23 ance with subsection (5) of this section, the sheriff may proceed to sell the property. If the home-
 24 stead exemption applies, the sheriff shall pay the homestead owner out of the proceeds the sum *[of*
 25 *\$40,000 or \$50,000, whichever is applicable]* **specified in subsection (1) of this section**, and apply
 26 the balance of the proceeds on the execution. However, no sale shall be made where the homestead
 27 exemption applies unless the sum bid for the homestead is in excess of the sum of the costs of sale
 28 and *[\$40,000 or \$50,000, whichever is applicable]* **the sum specified in subsection (1) of this sec-**
 29 **tion**. If no such bid is received, the expense of the sale shall be borne by the petitioner.

30 (9) The homestead exemption provided by this section applies to a purchaser's interest under a
 31 land sale contract, as defined by ORS 18.960.

32 (10) The homestead exemption provided by this section applies to:

33 (a) A floating home, as defined by ORS 830.700; and

34 (b) A manufactured dwelling, as defined by ORS 446.003.

35 **SECTION 5.** ORS 18.402 is amended to read:

36 18.402. The homestead mentioned in ORS 18.395 shall consist, when not located in any town or
 37 city laid off into blocks and lots, of any quantity of land not exceeding 160 acres, and when located
 38 in any such town or city, of any quantity of land not exceeding one block. However, a homestead
 39 under this section *[shall]* **may not** exceed in value the sum *[of \$40,000 or \$50,000, whichever amount*
 40 *is applicable under]* **specified in** ORS 18.395 (1).

41 **SECTION 6.** ORS 18.412 is amended to read:

42 18.412. (1) At any time after the date of execution of an agreement to transfer the ownership
 43 of property in which a homestead exemption exists pursuant to ORS 18.395, the homestead owner
 44 or the owner's transferee may give notice of intent to discharge the property from the judgment lien
 45 to a judgment creditor. Each notice *[shall]* **must** bear the caption of the action in which the judg-

1 ment was recovered and *[shall]* **must**:

2 (a) Identify the property and the judgment and state that the judgment debtor is about to
 3 transfer, or has transferred, the property and that the transfer is intended to discharge the property
 4 from any lien effect of the judgment;

5 (b) State the fair market value of the property on the date of the notice or of any applicable
 6 petition in bankruptcy, whichever is applicable, and list the encumbrances against the property, in-
 7 cluding the nature and date of each encumbrance, the name of the encumbrancer and the amount
 8 presently secured by each encumbrance;

9 (c) State that the property is claimed by the person giving the notice to be wholly exempt from
 10 the lien of the judgment or, if the value of the property exceeds the sum of the encumbrances
 11 specified as required under paragraph (b) of this subsection that are senior to the judgment lien and
 12 *[\$40,000 or \$50,000, whichever]* **the** amount of the homestead exemption *[is applicable under]* **speci-**
 13 **fied in** ORS 18.395 (1), that the amount of the excess or the amount due on the judgment, whichever
 14 is less, will be deposited with the court administrator for the court in which the judgment was en-
 15 tered for the use of the judgment holder; and

16 (d) Advise the holder of the judgment that the property may be discharged from any lien arising
 17 from the judgment, without further notice to the judgment creditor, unless prior to a specified date,
 18 which in no case may be earlier than 14 days after the date of mailing of the notice, the judgment
 19 creditor files objections and a request for a hearing on the matter as provided in ORS 18.415.

20 (2) Each notice described by subsection (1) of this section shall be sent by certified mail to the
 21 judgment creditor, as shown by the court records, at the judgment creditor's present or last-known
 22 address according to the best knowledge of the person sending the notice. A copy of each notice,
 23 together with proof of mailing, may be filed with the court administrator for the court in which the
 24 judgment was entered and shall be filed by the court administrator with the records and files of the
 25 action in which the judgment was recovered.

26 **SECTION 7.** ORS 18.785 is amended to read:

27 18.785. (1)(a) Except as provided in this section, if a financial institution determines from a
 28 garnishment account review conducted under ORS 18.784 (1) that one or more payments described
 29 in ORS 18.784 (3) have been deposited into the debtor's account by direct deposit or electronic
 30 payment during the lookback period described in ORS 18.784 (2), and there is a positive balance in
 31 the account at the time the garnishment account review is conducted, the financial institution shall:

32 *[(a)]* (A) Immediately calculate and establish the amount in the debtor's account that is not
 33 subject to garnishment, **which may not be less than \$12,000**, and ensure that the debtor has full
 34 customary access to that amount; and

35 *[(b)]* (B) Issue a notice to the account holder in substantially the form set forth in ORS 18.847.

36 (b) **The account balance to which the financial institution must ensure full customary**
 37 **access under paragraph (a)(A) of this subsection does not consist of or include amounts that**
 38 **are exempt from garnishment under ORS 18.348 and 18.385.**

39 (2) A financial institution shall issue the notice required by this section directly to the account
 40 holder or to a fiduciary who administers the account and receives communications on behalf of the
 41 account holder.

42 (3) The notice required by this section must be sent separately to the debtor and may not be
 43 included with other materials being provided to the debtor by the financial institution that do not
 44 relate to the garnishment.

45 (4) The notice required by this section must be sent to the account holder within three business

1 days after the financial institution completes the garnishment account review required by ORS
2 18.784 (1).

3 (5) A financial institution shall perform the calculation described in subsection (1) of this section
4 for each account of the account holder. However, the financial institution may issue a single notice
5 under this section for multiple accounts of the same account holder.

6 (6) Issuance of a notice under this section does not constitute the giving of legal advice and a
7 financial institution is not obligated to provide legal advice by reason of issuing a notice required
8 by this section.

9 **SECTION 8.** ORS 18.840 is amended to read:

10 18.840. A wage exemption calculation form must be delivered to the garnishee with each writ
11 of garnishment. A wage exemption calculation form must be in substantially the following form:
12

13
14 **WAGE EXEMPTION CALCULATION**
15 (to be filled out by employers only)
16

- 17 1. Debtor's gross wages
18 for period covered by this
19 payment..... \$ _____
- 20 2. Total amount required to be
21 withheld by law for amount in Line 1
22 (Federal and state
23 withholding, Social
24 Security, etc.)..... \$ _____
- 25 3. Debtor's disposable wages
26 (Subtract Line 2
27 from Line 1)..... \$ _____
- 28 4. Normal exemption
29 (Enter 75 percent
30 of Line 3)..... \$ _____
- 31 5. Minimum exemption (check one)
32 — [\$254] **\$1,000** (payment of wages weekly)
33 — [\$509] **\$2,000** (payment of wages every
34 two weeks)
35 — [\$545] **\$2,200** (payment of wages half-monthly)
36 — [\$1,090] **\$4,000** (payment of wages monthly)
37 — \$_____ (Any other period longer
38 than one week, including partial
39 payments for less than full pay
40 period) (Multiply [\$254] **\$1,000** by number
41 of weeks or fraction of a week)
- 42 6. Wages exempt from garnishment
43 (Line 4 or 5,
44 whichever is greater)..... \$ _____
- 45 7. Nonexempt wages

1 (Subtract Line 6
 2 from Line 3) \$ _____
 3 8. Amount withheld for this pay period
 4 pursuant to a support order under
 5 support withholding process or under
 6 another writ with priority..... \$ _____
 7 9. Wages subject to garnishment
 8 (Subtract Line 8
 9 from Line 7) \$ _____

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INSTRUCTIONS FOR WAGE
 EXEMPTION CALCULATION FORM

If you employ the Debtor named in the writ of garnishment, you must fill out and return this Wage Exemption Calculation form. A Wage Exemption Calculation form must be sent with the first payment you make under the writ. For the 90-day period during which the writ is effective, you must also fill out and return a Wage Exemption Calculation form with a subsequent payment any time the initial calculation changes. Finally, you must fill out and return a Wage Exemption Calculation form with the final payment that you make under the writ.

Normal wage exemption. The wage exemption calculation is based on the amount of the payment you make under the writ of garnishment. The normal wage exemption in Line 4 is [75] **85** percent of the employee’s disposable wages in Line 3.

Minimum wage exemption. The minimum exemption in Line 5 is also based on the amount of the payment you are making. The minimum exemption is designed to ensure that an employee receives at least a certain minimum amount in any one-week period. If the payment is for a one-week period (without regard to whether the period is a calendar week or any other seven-day period), the minimum exemption is [~~\$254~~] **\$1,000**. The minimum exemption is [~~\$509~~] **\$2,000** if the payment is for a two-week period. If the payment is for one-half of one month (i.e., the Debtor is paid twice each month), the minimum exemption is [~~\$545~~] **\$2,200**. The minimum exemption for a monthly payment is [~~\$1,090~~] **\$4,000**.

If the payment you are making is based on some period of time other than one week, two weeks, half month or month, and the payment is for more than one week, you must calculate the minimum exemption by multiplying [~~\$254~~] **\$1,000** by the number of weeks covered by the paycheck, including any fraction of a week. You should round the amount calculated to the nearest dollar.

Example 1: You pay Debtor A every 10 days. Each 10-day period is equal to 1.429 weeks (10 divided by 7). The minimum exemption is [~~\$363~~] **\$1,429** ([~~\$254~~] **\$1,000** × 1.429 rounded to the nearest dollar).

You must use this same calculation for computing the minimum exemption when making a payment for less than a full pay period (e.g., for the final payment at the end of the 90-day period covered by the writ).

Example 2: You pay Debtor A on a monthly basis. You are required to make a final payment under a writ of garnishment for the wages owing to Debtor A for the period beginning October 1 and ending October 15. This period is equal to 2.143 weeks (15 divided by 7). The minimum exemption is [~~\$544~~] **\$2,143** (~~[\$254]~~ **\$1,000** × 2.143 rounded to the nearest dollar).

The amount of time actually worked by the Debtor during the period covered by the paycheck does not affect the calculation of the minimum exemption.

Example 3: You pay Debtor A on a weekly basis. Debtor A works two days per week. The minimum exemption is [~~\$254~~] **\$1,000** for each weekly payment you make for Debtor A.

If the payment you are making is based on a period of time less than one week, the minimum wage exemption may not exceed [~~\$254~~] **\$1,000** for any one-week period.

If you receive more than one writ of garnishment. If you receive more than one writ of garnishment for the same debtor, the writs have priority based on the date on which you receive them. If the full amount of wages subject to garnishment for a given pay period is paid on the first writ, you should not make any payment on subsequently received writs until the first writ expires. In some cases, it may be necessary to make payments on two or more writs for the same pay period.

Example 4: You have received two writs of garnishment for Debtor A. You pay Debtor A on a monthly basis. The first writ expires on October 16. The second writ will not expire until November 15. You will need to prepare two wage exemption calculation forms for Debtor A's October wages and make payments under both writs. The wage exemption calculation form for the first writ will be for the wages attributable to October 1 to October 15 as described in Example 2. The wage exemption calculation form for the second writ will be for all wages for the month of October, but the amounts withheld under the first writ must be subtracted on Line 8 to determine the October wages subject to garnishment under the second writ.

SECTION 9. ORS 18.845 is amended to read:

18.845. A notice of exemptions form must be in substantially the form set forth in this section. Nothing in the notice form described in this section is intended to expand or restrict the law relating to exempt property. A determination as to whether property is exempt from execution, attachment and garnishment must be made by reference to other law. The form provided in this section may be modified to provide more information or to update the notice based on subsequent changes in exemption laws.

NOTICE OF EXEMPT PROPERTY
AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be

1 reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
2 are enclosed.

3 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
4 FULLY.

5 State and federal law specify that certain property may not be taken. Some of the property that
6 you may be able to get back is listed below.

7 (1) Wages or a salary as described in ORS 18.375 and 18.385. Whichever of the following
8 amounts is greater:

9 (a) [75] **85** percent of your take-home wages; or

10 (b) [~~\$254~~] **\$1,000** per workweek.

11 (2) Social Security benefits.

12 (3) Supplemental Security Income (SSI).

13 (4) Public assistance (welfare).

14 (5) Unemployment benefits.

15 (6) Disability benefits (other than SSI benefits).

16 (7) Workers' compensation benefits.

17 (8) All Social Security benefits and Supplemental Security Income benefits, and up to [~~\$7,500~~]
18 **\$15,000** in exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits,
19 that are held in a bank account. You may attach copies of bank statements to the Challenge to
20 Garnishment form if you claim this exemption.

21 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
22 for your support or the support of any of your dependents.

23 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
24 by your spouse, parent or child. [*Up to \$40,000 of the value of the homestead*] **An amount equivalent**
25 **to not more than the median housing price for single-family dwellings in the county in which**
26 **the homestead is located** is exempt. If you jointly own the homestead with another person who is
27 also liable on the debt[, *up to \$50,000 of the value of the homestead is exempt*] **your combined ex-**
28 **emptions may not exceed the amount of your exemption plus 50 percent for your spouse,**
29 **parent or child that resides in the homestead, even if the spouse, parent or child does not**
30 **have an ownership interest in the homestead.**

31 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in
32 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure
33 another homestead.

34 [*(12) Household goods, furniture, radios, a television set and utensils with a combined value not*
35 *to exceed \$3,000.*]

36 [**(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.*]

37 [**(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your*
38 *occupation, with a combined value not to exceed \$5,000.*]

39 [**(15) Books, pictures and musical instruments with a combined value not to exceed \$600.*]

40 [**(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed*
41 *\$1,800.*]

42 [*(17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000 and*
43 *their food for 60 days.*]

44 [*(18) Provisions and fuel for your family for 60 days.*]

45 ***(12) All of your household goods and the household goods of your dependents, except**

1 individual items that a court determines have a value of more than \$3,000, including but not
 2 limited to:

3 (a) Appliances, cookware, dishes and utensils for storing food and preparing meals, such
 4 as a refrigerator, stove, microwave oven or other kitchen appliance;

5 (b) Food and other provisions, including medical devices, prescribed health aids and
 6 medications;

7 (c) Cleaning appliances such as a clothes washer and dryer and vacuum cleaner;

8 (d) Equipment for maintaining a yard;

9 (e) Radios and a television;

10 (f) Household equipment and tools necessary to operate, maintain or repair a home, in-
 11 cluding heating and cooling appliances and fuel for the appliances, air cleaners and security
 12 devices and equipment;

13 (g) All personal possessions, including books, clothing, pets, personal health aids, musical
 14 instruments, toys and recreational items, computers and similar electronic devices, tele-
 15 phones and one item of jewelry regardless of price; and

16 (h) Tools, books, software, subscriptions, accounts, electronically stored data, instru-
 17 ments, motor vehicles, machines and equipment that you use or may use to engage in or
 18 search for employment, except that a court may allow execution for specific items if the
 19 court finds evidence that the aggregate value of items listed in this paragraph that belong
 20 to you exceeds \$30,000 or, for farm tools, equipment, crops and animals, the value exceeds
 21 \$50,000 and the court permits you to specify individual items that are exempt from execution.

22 *(13) A motor vehicle or an interest in a motor vehicle up to a value of \$15,000 or, if the
 23 motor vehicle has been adapted for special use to assist with a disability of the judgment
 24 debtor or a dependent of the judgment debtor, up to a value of \$25,000.

25 *(14) Any interest in an annuity, retirement account, including inherited individual re-
 26 tirement accounts, pension fund, stock bonus, profit-sharing plan or similar plans or con-
 27 tracts that provide benefits by reason of age, illness, disability or length of service and that
 28 derive from inheritance, designation, appointment or otherwise or are payable to your or
 29 your dependents as an insured or beneficiary, up to a value of \$1.5 million, plus an additional
 30 \$1.5 million for each of your dependents, less amounts that each dependent holds or is due
 31 from other sources of maintenance and support, including the proceeds of a life insurance
 32 policy.

33 (15) Proceeds from a loan from the United States Small Business Administration or an-
 34 other source as support for a small business, unless you borrowed for the purpose of paying
 35 the judgment.

36 (16) Amounts in savings accounts created under the provisions of the Achieving a Better
 37 Life Experience Act of 2014 (Division B of P.L. 113-295) or other accounts for individuals with
 38 disabilities, up to \$1.5 million per beneficiary, whether paid or payable.

39 [(19)] (17) One rifle or shotgun and one pistol. The combined value of all firearms claimed as
 40 exempt may not exceed \$1,000.

41 [(20) *Public or private pensions.*]

42 [(21)] (18) Veterans' benefits and loans.

43 [(22)] (19) Medical assistance benefits.

44 [(23)] (20) Health insurance proceeds and disability proceeds of life insurance policies.

45 [(24)] (21) Cash surrender value of life insurance policies not payable to your estate.

1 [(25) *Federal annuities.*]

2 [(26) *Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-*
3 *emption as wages).*]

4 [(27)] (22) Professionally prescribed health aids for you or any of your dependents.

5 *[(28)] (23) Rental assistance to an elderly person allowed pursuant to ORS 458.375.

6 [(29)] (24) Your right to receive, or property traceable to:

7 (a) An award under any crime victim reparation law.

8 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
9 jury suffered by you or an individual of whom you are a dependent.

10 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
11 are or were a dependent, to the extent reasonably necessary for your support and the support of
12 any of your dependents.

13 [(30)] (25) Amounts paid to you as an earned income tax credit under federal tax law.

14 [(31)] (26) Your right to the assets held in, or right to receive payments under, a medical savings
15 account or health savings account authorized under section 220 or 223 of the Internal Revenue
16 Code.

17 *[(32)] (27) Interest in personal property to the value of [\$400, *but this cannot be used to increase*
18 *the amount of any other exemption*] **\$1,500.**

19 [(33)] (28) Equitable interests in property.

20 [(34)] (29) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

21 [(35)] (30) If the amount shown as owing on the Debt Calculation form exceeds the amount you
22 actually owe to the creditor, the difference between the amount owed and the amount shown on the
23 Debt Calculation form.

24
25 Note: If two or more people in your household owe the claim or judgment, each of them may
26 claim the exemptions marked by an asterisk (*) **subject to any specified caps or other**
27 **limitations.**

28 **Note: The amounts specified as limitations on exemptions in this form may change as a**
29 **result of changes in the Consumer Price Index. Consult the office of the State Court Ad-**
30 **ministrator for current limitations.**

31
32
33 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
34 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
35 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
36 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
37 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
38 obligation.

39
40 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.
41 You may seek to reclaim your exempt property by doing the following:

42 (1) Fill out the Challenge to Garnishment form that you received with this notice.

43 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address
44 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the
45 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must

1 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any
 2 other money or property is exempt, or claim that the property is not subject to garnishment, you
 3 must mail or deliver the form within 30 days after you receive this notice. You have the burden of
 4 showing that your challenge is made on time, so you should keep records showing when the chal-
 5 lenge was mailed or delivered.

6 (3) The law only requires that the Garnishor hold the garnished money or property for 10 days
 7 before applying it to the Creditor's use. You may be able to keep the property from being used by
 8 the Creditor by promptly following (1) and (2) above.

9
 10 You should be prepared to explain your exemption in court. If you have any questions about the
 11 garnishment or the debt, you should see an attorney.

12 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
 13 ING PURPOSES:

14 (1) To claim such exemptions from garnishment as are permitted by law.

15 (2) To assert that property is not garnishable property under ORS 18.618.

16 (3) To assert that the amount specified in the writ of garnishment as being subject to
 17 garnishment is greater than the total amount owed.

18
 19 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
 20 VALIDITY OF THE DEBT.

21 IF YOU FILE A CHALLENGE TO A GARNISHMENT IN BAD FAITH, YOU MAY BE SUB-
 22 JECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties
 23 that you could be subject to are listed in ORS 18.715.

24 When you file a Challenge to Garnishment form, the Garnishee may be required to make all
 25 payments under the garnishment to the court, and the Garnishor may be required to pay to the
 26 court all amounts received by the Garnishor that are subject to the challenge to the garnishment.
 27 The Garnishee and Garnishor are subject to penalties if they do not. For a complete explanation of
 28 their responsibilities, see ORS 18.705 and 18.708.

29
 30
 31 **SECTION 10.** ORS 18.855 is amended to read:

32 18.855. (1) Notwithstanding ORS 18.607, a notice of garnishment issued by a state agency need
 33 not contain the name of a court whose authority is invoked.

34 (2) State agencies shall make such modifications as are necessary in the wage exemption cal-
 35 culation form provided by ORS 18.840 if a notice of garnishment is issued for a debt due for a state
 36 tax that is subject to the provisions of ORS 18.385 [(6)] (7).

37 (3) Notwithstanding ORS 18.625, but subject to ORS 18.618 (2), a notice of garnishment issued
 38 by a state agency acts to garnish all wages earned by the debtor by reason of services to the
 39 garnishee until the full amount of the debt is paid or until the notice of garnishment is released by
 40 the state agency or by court order. A notice of garnishment issued by a state agency must contain
 41 language reasonably designed to notify the garnishee of the provisions of this subsection.

42 (4) Notwithstanding ORS 18.690, a garnishee who receives a notice of garnishment issued by a
 43 state agency need not deliver a copy of the garnishee response to the clerk of the court, but must
 44 deliver the original of the response to the state agency.

45 (5) Notwithstanding ORS 18.700, a challenge to a notice of garnishment issued by a state agency

1 must be delivered in person or by first class mail to the state agency within the time specified by
2 ORS 18.700 (2). Upon receiving a challenge, the state agency shall provide notice of the challenge
3 in the manner provided by ORS 18.702. Upon a sheriff receiving notice under ORS 18.702, the sheriff
4 shall proceed as provided by ORS 18.760, except that upon determination of the challenge by an
5 administrative law judge, the sheriff shall proceed as directed by the judge. Within 14 days after
6 receiving the challenge, the state agency must either concede the challenge or give the person
7 making the challenge opportunity for hearing. If the person making the challenge requests a hearing,
8 the agency shall immediately refer the challenge to the Office of Administrative Hearings estab-
9 lished under ORS 183.605. The hearing shall be conducted as soon as possible. Notwithstanding ORS
10 183.315, the hearing shall be conducted as a contested case hearing. An issue that was decided in
11 a previous hearing, or for which the debtor was previously afforded an opportunity for hearing, may
12 not be reconsidered.

13 (6) If a state agency is issuing a notice of garnishment for collection of a state tax, and the state
14 agency has reason to believe that the debtor intends to leave the state or do any other act that
15 would jeopardize collection of the tax, the state agency may issue a special notice of garnishment.
16 Any earnings, as defined in ORS 18.375, garnished under a special notice of garnishment are not
17 subject to a claim of exemption under ORS 18.385. A special notice of garnishment issued under this
18 subsection garnishes only that property of the debtor that is in the garnishee's possession, control
19 or custody at the time the special notice is delivered, including debts not yet due, and all wages
20 owed by the garnishee to the debtor at the time the special notice is delivered. A special notice of
21 garnishment does not act to garnish wages earned by the debtor by reason of services rendered to
22 the garnishee after the delivery of the special notice of garnishment.

23 (7) A special notice of garnishment issued under subsection (6) of this section shall contain a
24 statement indicating that it is a special notice of garnishment under subsection (6) of this section
25 and a statement reflecting the provisions of subsection (6) of this section. Notwithstanding ORS
26 18.854 (1), a wage exemption calculation form shall not be delivered to the garnishee with a special
27 notice of garnishment.

28 (8) Notwithstanding ORS 18.854 (1)(b), the Department of Revenue is not required to deliver a
29 warrant or true copy of a warrant with the notice of garnishment when garnishing property of a
30 debtor.

31 (9) Notwithstanding ORS 18.607 (4):

32 (a) A notice of garnishment issued by the Department of Revenue must include the name of the
33 person issuing the notice on behalf of the department, but need not be signed by that person.

34 (b) A notice of garnishment related to the overpayment of medical assistance as defined in ORS
35 414.025, or public assistance as defined in ORS 411.010, issued by the Department of Human Services
36 or the Oregon Health Authority must include the name of the person issuing the notice on behalf
37 of the department or authority, but need not be signed by that person.

38 **SECTION 11.** ORS 87.162 is amended to read:

39 87.162. Except as provided in ORS 87.156 and 90.120, a landlord has a lien on all chattels, except
40 wearing apparel [*as defined in ORS 18.345 (1)*], owned by a tenant or occupant legally responsible
41 for rent, brought upon the leased premises, to secure the payment of rent and such advances as are
42 made on behalf of the tenant. The landlord may retain the chattels until the amount of rent and
43 advances is paid.

44 **SECTION 12.** ORS 646.639 is amended to read:

45 646.639. (1) As used in this section and ORS 646A.670:

1 (a) "Charged-off debt" means a debt that a creditor treats as a loss or expense and not as an
2 asset.

3 (b) "Consumer" means a natural person who purchases or acquires property, services or credit
4 for personal, family or household purposes.

5 (c) "Consumer transaction" means a transaction between a consumer and a person that sells,
6 leases or provides property, services or credit to consumers.

7 (d) "Credit" means a right that a creditor grants to a consumer to defer payment of a debt, to
8 incur a debt and defer payment of the debt, or to purchase or acquire property or services and defer
9 payment for the property or services.

10 (e) "Creditor" means a person that, in the ordinary course of the person's business, engages in
11 consumer transactions that result in a consumer owing a debt to the person.

12 (f) "Debt" means an obligation or alleged obligation that arises out of a consumer transaction.

13 (g)(A) "Debt buyer" means a person that regularly engages in the business of purchasing
14 charged-off debt for the purpose of collecting the charged-off debt or hiring another person to collect
15 or bring legal action to collect the charged-off debt.

16 (B) "Debt buyer" does not include a person that acquires charged-off debt as an incidental part
17 of acquiring a portfolio of debt that is predominantly not charged-off debt.

18 (h) "Debt collector" means a person that by direct or indirect action, conduct or practice col-
19 lects or attempts to collect a debt owed, or alleged to be owed, to a creditor or debt buyer.

20 (i) "Debtor" means a consumer who owes or allegedly owes a debt, including a consumer who
21 owes an amount that differs from the amount that a debt collector attempts to collect or that a debt
22 buyer purchased or attempts to collect.

23 (j) "Legal action" means a lawsuit, mediation, arbitration or any other proceeding in any court,
24 including a small claims court.

25 (k) "Original creditor" means the last entity that extended credit to a consumer to purchase
26 goods or services, to lease goods or as a loan of moneys.

27 (L) "Person" means an individual, corporation, trust, partnership, incorporated or
28 unincorporated association or any other legal entity.

29 (2) A debt collector engages in an unlawful collection practice if the debt collector, while col-
30 lecting or attempting to collect a debt, does any of the following:

31 (a) Uses or threatens to use force or violence to cause physical harm to a debtor or to the
32 debtor's family or property.

33 (b) Threatens arrest or criminal prosecution.

34 (c) Threatens to seize, attach or sell a debtor's property if doing so requires a court order and
35 the debt collector does not disclose that seizing, attaching or selling the debtor's property requires
36 prior court proceedings.

37 (d) Uses profane, obscene or abusive language in communicating with a debtor or the debtor's
38 family.

39 (e) Communicates with a debtor or any member of the debtor's family repeatedly or continuously
40 or at times known to be inconvenient to the debtor or any member of the debtor's family and with
41 intent to harass or annoy the debtor or any member of the debtor's family.

42 (f) Communicates or threatens to communicate with a debtor's employer concerning the nature
43 or existence of the debt.

44 (g) Communicates without a debtor's permission or threatens to communicate with the debtor
45 at the debtor's place of employment if the place of employment is other than the debtor's residence,

1 except that the debt collector may:

2 (A) Write to the debtor at the debtor's place of employment if a home address is not reasonably
3 available and if the envelope does not reveal that the communication is from a debt collector other
4 than the person that provided the goods, services or credit from which the debt arose.

5 (B) Telephone a debtor's place of employment without informing any other person of the nature
6 of the call or identifying the caller as a debt collector but only if the debt collector in good faith
7 has made an unsuccessful attempt to telephone the debtor at the debtor's residence during the day
8 or during the evening between the hours of 6 p.m. and 9 p.m. The debt collector may not contact
9 the debtor at the debtor's place of employment more frequently than once each business week and
10 may not telephone the debtor at the debtor's place of employment if the debtor notifies the debt
11 collector not to telephone at the debtor's place of employment or if the debt collector knows or has
12 reason to know that the debtor's employer prohibits the debtor from receiving such communication.
13 For the purposes of this subparagraph, any language in any agreement, contract or instrument that
14 creates or is evidence of the debt and that purports to authorize telephone calls at the debtor's place
15 of employment does not give permission to the debt collector to call the debtor at the debtor's place
16 of employment.

17 (h) Communicates with a debtor in writing without clearly identifying the name of the debt
18 collector, the name of the person, if any, for whom the debt collector is attempting to collect the
19 debt and the debt collector's business address, on all initial communications. In subsequent commu-
20 nications involving multiple accounts, the debt collector may eliminate the name of the person, if
21 any, for whom the debt collector is attempting to collect the debt and substitute the term
22 "various" in place of the person's name.

23 (i) Communicates with a debtor orally without disclosing to the debtor, within 30 seconds after
24 beginning the communication, the name of the individual who is initiating the communication and
25 the true purpose of the communication.

26 (j) Conceals the true purpose of the communication so as to cause any expense to a debtor in
27 the form of long distance telephone calls, telegram fees, additional charges for wireless communi-
28 cation or other charges the debtor might incur by using a medium of communication.

29 (k) Attempts or threatens to enforce a right or remedy while knowing or having reason to know
30 that the right or remedy does not exist, or threatens to take any action that the debt collector in
31 the regular course of business does not take.

32 (L) Uses any form of communication that simulates legal or judicial process or that appears to
33 be authorized, issued or approved by a governmental agency, governmental official or an attorney
34 at law if the corresponding governmental agency, governmental official or attorney at law has not
35 in fact authorized or approved the communication.

36 (m) Represents that an existing debt may be increased by the addition of attorney fees, investi-
37 gation fees or any other fees or charges if the fees or charges may not legally be added to the ex-
38 isting debt.

39 (n) Collects or attempts to collect interest or other charges or fees that exceed the actual debt
40 unless the agreement, contract or instrument that creates the debt expressly authorizes, or a law
41 expressly allows, the interest or other charges or fees.

42 (o) Threatens to assign or sell a debtor's account and misrepresents or implies that the debtor
43 would lose any defense to the debt or would be subjected to harsh, vindictive or abusive collection
44 tactics.

45 (p) Uses the seal or letterhead of a public official or a public agency, as those terms are defined

1 in ORS 171.725.

2 (q) Collects or attempts to collect any debt that the debt collector knows, or after exercising
 3 reasonable diligence would know, arises from medical expenses that qualify for reimbursement under
 4 the Oregon Health Plan or under Medicaid, except that:

5 (A) The debt collector does not engage in an unlawful collection practice if the debt collector
 6 can produce an affidavit or certificate from the original creditor that shows that the original cred-
 7 itor complied with Oregon Health Authority rules barring payments for services that Medicaid fee-
 8 for-service plans or contracted health care plans cover; and

9 (B) For purposes of this paragraph, a prepaid managed care health services organization, a co-
 10 ordinated care organization or a public body, as defined in ORS 174.109, or an agent or assignee of
 11 the organization or public body, is not a debt collector if the organization or public body seeks to
 12 collect a debt that arises under ORS 416.540.

13 (r) Files a legal action to collect or files a legal action to attempt to collect a debt if the debt
 14 collector knows, or after exercising reasonable diligence would know, that an applicable statute of
 15 limitations bars the collection or the collection attempt.

16 (s) Knowingly collects **or attempts to collect** any amount, including any interest fee, charge
 17 or expense incidental to the principal obligation, **whether the principal obligation exists or does**
 18 **not exist, by any means, including through threatening to bring or bringing any legal action,**
 19 unless the amount is expressly authorized by the agreement creating the debt or permitted by law.

20 (t) Collects or attempts to collect a debt if the debt collector is a debt buyer, or is acting on a
 21 debt buyer's behalf, and collects or attempts to collect purchased debt before providing to a debtor,
 22 within 30 days after the date of the debtor's request, all of the documents listed in subsection (4)(b)
 23 of this section.

24 (u) Collects or attempts to collect a debt without complying with the requirements of ORS
 25 646A.677.

26 (3) A debt collector engages in an unlawful collection practice if the debt collector, by use of
 27 any direct or indirect action, conduct or practice, enforces or attempts to enforce an obligation
 28 made void and unenforceable by the provisions of ORS 759.720 (3) to (5).

29 (4) A debt buyer or debt collector acting on behalf of a debt buyer engages in an unlawful col-
 30 lection practice if the debt buyer or debt collector:

31 (a) Files legal action against a debtor or files legal action to attempt to collect a debt if the debt
 32 buyer or debt collector knows or after exercising reasonable diligence would know that an applica-
 33 ble statute of limitations bars the legal action to collect or the legal action to attempt to collect the
 34 debt;

35 (b) Brings a legal action against a debtor or otherwise brings a legal action to attempt to collect
 36 a debt without possessing business records that satisfy the requirements of ORS 40.460 (6), or of ORS
 37 24.115, if the record is a foreign judgment, that establish the nature and the amount of the debt and
 38 that include:

39 (A) The original creditor's name, written as the original creditor used the name in dealings with
 40 the debtor;

41 (B) The name and address of the debtor;

42 (C) The name, address and telephone number of the person that owns the debt and a statement
 43 as to whether the person is a debt buyer;

44 (D) The last four digits of the original creditor's account number for the debt, if the original
 45 creditor's account number for the debt had four or more digits;

- 1 (E) A detailed and itemized statement of:
 - 2 (i) The amount the debtor last paid on the debt, if the debtor made a payment, and the date of
 - 3 the payment;
 - 4 (ii) The amount and date of the debtor's last payment on the debt before the debtor defaulted
 - 5 or before the debt became charged-off debt;
 - 6 (iii) The balance due on the debt on the date on which the debt became charged-off debt;
 - 7 (iv) The amount and rate of interest, any fees and any charges that the original creditor im-
 - 8 posed, if the debt buyer or debt collector knows the amount, rate, fee or charge;
 - 9 (v) The amount and rate of interest, any fees and any charges that the debt buyer or any pre-
 - 10 vious owner of the debt imposed, if the debt buyer or debt collector knows the amount, rate, fee or
 - 11 charge;
 - 12 (vi) The attorney fees the debt buyer or debt collector seeks, if the debt buyer or debt collector
 - 13 expects to recover attorney fees; and
 - 14 (vii) Any other fee, cost or charge the debt buyer seeks to recover;
- 15 (F) Evidence that the debt buyer and only the debt buyer owns the debt;
- 16 (G) The date on which the debt buyer purchased the debt; and
- 17 (H) A copy of the agreement between the original creditor and the debtor that is either:
 - 18 (i) The contract or other writing the debtor signed that created and is evidence of the original
 - 19 debt; or
 - 20 (ii) A copy of the most recent monthly statement that shows a purchase transaction or balance
 - 21 transfer or the debtor's last payment, if the debtor made a payment, if the debt is a credit card debt
 - 22 or other debt for which a contract or other writing that is evidence of the debt does not exist;
 - 23 (c) Fails to provide to a debtor, after the debt buyer or debt collector receives payment in cash
 - 24 or the debtor requests the receipt, a receipt that:
 - 25 (A) Shows the name of the creditor or creditors for whom the debt buyer or debt collector re-
 - 26 ceived the payment and, if the creditor is not the original creditor, the account number that the
 - 27 original creditor assigned; and
 - 28 (B) States clearly whether the debt buyer or debt collector accepts the payment as payment in
 - 29 full or as a full and final compromise of the debt and, if not, the balance remaining on the debt after
 - 30 the payment;
 - 31 (d) Collects or attempts to collect a debt before providing, in response to a debtor's request, the
 - 32 documents required under paragraph (b) of this subsection. A debt buyer or a debt collector that
 - 33 acts on the debt buyer's behalf does not engage in an unlawful collection practice under this para-
 - 34 graph if the debt buyer or debt collector collects or attempts to collect a debt after providing the
 - 35 required documents to the debtor; or
 - 36 (e) Uses any direct or indirect action, conduct or practice to violate a provision of this section
 - 37 or ORS 646A.670.
 - 38 (5) A debt collector is not acting on a debt buyer's behalf, and is not subject to the duties to
 - 39 which a debt buyer is subject under this section and ORS 646A.670, if the debt collector collects or
 - 40 attempts to collect a debt on behalf of an owner that retains a direct interest in the debt or if the
 - 41 debt is not a debt that a debt buyer purchased.

42 **SECTION 13.** ORS 646.641 is amended to read:

43 646.641. (1) Any person injured as a result of **another person's** willful use or employment [by

44 *another person*] of an unlawful collection practice may bring an action in an appropriate court to

45 enjoin the practice or to recover actual damages or [\$200] **\$1,000**, whichever is greater. The court

1 or the jury may award punitive damages, and the court may provide such equitable relief as [it] the
2 court deems necessary or proper.

3 [(2) In any action brought by a person under this section, the court may award reasonable attorney
4 fees to the prevailing party.]

5 (2) A class action may be maintained under this section. In any class action under this
6 section:

7 (a) Statutory damages under subsection (1) of this section may be recovered on behalf
8 of class members only if the plaintiffs in the action establish that the members have sus-
9 tained an injury as a result of the defendant's reckless or knowing use or employment of an
10 unlawful collection practice under ORS 646.639;

11 (b) The trier of fact may award punitive damages; and

12 (c) The court may award appropriate equitable relief.

13 (3) The court may award reasonable attorney fees and costs at trial and on appeal to a
14 prevailing plaintiff in an action under this section. The court may award reasonable attorney
15 fees and costs at trial and on appeal to a prevailing defendant only if the court finds that
16 an objectively reasonable basis for bringing the action or asserting the ground for appeal did
17 not exist.

18 [(3)] (4) Actions brought under this section [shall] must be commenced within [one year from the
19 date of the injury.] six years after discovery of the unlawful method, act or practice.

20 **SECTION 14.** ORS 646.643 is repealed.

21 **SECTION 15.** On the date that is one year after the effective date of this 2023 Act, the
22 State Court Administrator shall begin indexing the amounts specified as maximum limits on
23 exemptions in ORS 18.345 (1)(a) as described in ORS 18.345 (1)(b), and shall begin indexing the
24 exemption amounts set forth in ORS 18.385 (2) and (3) as described in ORS 18.385 (4).

25 **SECTION 16.** The amendments to ORS 18.345, 18.348, 18.385, 18.395, 18.402, 18.412, 18.785,
26 18.840, 18.845, 18.855, 87.162, 646.639 and 646.641 by sections 1 to 13 of this 2023 Act and the
27 repeal of ORS 646.643 by section 14 of this 2023 Act apply to judgments entered and debts
28 incurred on or after the effective date of this 2023 Act.

29 **SECTION 17.** This 2023 Act takes effect on the 91st day after the date on which the 2023
30 regular session of the Eighty-second Legislative Assembly adjourns sine die.

31