

A-Engrossed
House Bill 3235

Ordered by the House March 31
Including House Amendments dated March 31

Sponsored by Representatives VALDERRAMA, GRAYBER, REYNOLDS, SMITH G, Senator CAMPOS; Representatives ANDERSEN, BOWMAN, GAMBA, NGUYEN H, PHAM H, PHAM K, RUIZ, SOSA, Senators DEMBROW, GORSEK, JAMA, PATTERSON, WOODS

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.

Creates refundable child tax credit, calculated based on number of dependents of taxpayer [*under age of 18*] **that are qualifying children with respect to taxpayer and are under six years of age at close of tax year. Limits credit to five dependents per tax return.** Phases out amount of available credit based on adjusted gross income of taxpayer. Adjusts credit amount and phaseout threshold for inflation. Provides that credit is not subject to garnishment.

Applies to tax years beginning on or after January 1, 2024, and before January 1, 2030.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a child tax credit; creating new provisions; amending ORS 18.345, 18.845 and 316.502;
3 and prescribing an effective date.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 315.**

6 **SECTION 2. (1) As used in this section:**

7 (a) **"Dependent" means an individual who is under the age of six years at the close of the**
8 **tax year and who is a dependent of a taxpayer as described in section 152(a) of the Internal**
9 **Revenue Code, determined without regard to section 152(b)(3) of the Internal Revenue Code.**

10 (b) **"Qualifying child" has the meaning given that term in section 152(c) of the Internal**
11 **Revenue Code.**

12 (c) **"Qualifying income limit" means federal adjusted gross income, as modified using**
13 **Oregon subtractions and additions, but with losses of a taxpayer added back, to the extent**
14 **that losses exceed \$20,000.**

15 (2) **A resident taxpayer shall be allowed a credit against the tax otherwise due under ORS**
16 **chapter 316 for the tax year, with an amount allowed for each dependent of the taxpayer who**
17 **is a qualifying child with respect to the taxpayer, not to exceed five properly claimed depen-**
18 **dents per tax return. The credit shall be allowed as provided in subsections (3) and (4) of this**
19 **section. A taxpayer may claim a credit under this section using an individual taxpayer iden-**
20 **tification number and may claim it for dependents using individual taxpayer identification**
21 **numbers.**

22 (3) **The credit under this section:**

23 (a) **May not be claimed by a taxpayer with a qualifying income limit in excess of \$50,000,**
24 **if the taxpayer files a joint return or files a return as a surviving spouse or a head of**

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 household, or in excess of \$30,000, if the taxpayer files any other type of income tax return.

2 (b) Shall be in an amount of \$1,200 per dependent of the taxpayer, but, if the taxpayer
3 has a qualifying income limit in excess of \$40,000, if the taxpayer files a joint return or files
4 a return as a surviving spouse or a head of household, or has a qualifying income limit in
5 excess of \$20,000, if the taxpayer files any other type of income tax return, the total amount
6 of the credit shall be reduced as provided in subsection (4)(a) or (b) of this section.

7 (4) If a reduction under subsection (3) of this section is required, the amount by which
8 the credit shall be reduced is computed by multiplying the amount otherwise available under
9 subsection (3) of this section by a percentage. The percentage is computed:

10 (a) By dividing, by 10,000, the amount by which the taxpayer's qualifying income limit, if
11 the taxpayer files a joint return or files as a surviving spouse or a head of household, exceeds
12 \$40,000; or

13 (b) By dividing, by 10,000, the amount by which the taxpayer's qualifying income limit, if
14 the taxpayer files an income tax return other than a joint return or as a surviving spouse
15 or a head of household, exceeds \$20,000.

16 (5)(a) For tax years beginning in each calendar year, the Department of Revenue shall
17 adjust all credit amounts and thresholds set forth in subsections (3) and (4) of this section
18 by multiplying each dollar amount by the cost-of-living adjustment for the calendar year.

19 (b) For purposes of paragraph (a) of this subsection, the cost-of-living adjustment for any
20 calendar year is the percentage (if any) by which the monthly averaged U.S. City Average
21 Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar
22 year exceeds the monthly averaged index for the second quarter of the calendar year 2023.

23 (c) As used in this subsection, "U.S. City Average Consumer Price Index" means the U.S.
24 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the
25 Bureau of Labor Statistics of the United States Department of Labor.

26 (d) If any increase determined under paragraph (a) of this subsection is not a multiple
27 of \$50, the increase shall be rounded to the next lower multiple of \$50.

28 (6)(a) If the amount allowable as a credit under this section, when added to the sum of
29 the amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment
30 amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters
31 314 and 316 for the tax year after application of any nonrefundable credits allowable for
32 purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to
33 the taxpayer as provided in ORS 316.502.

34 (b) The credit under this section shall be computed after the allowance of any other
35 credit or offset against tax liability.

36 (7) If a change in the tax year of a taxpayer occurs as described in ORS 314.085, or if the
37 Department of Revenue terminates the taxpayer's tax year under ORS 314.440, the credit
38 allowed by this section shall be prorated or computed in a manner consistent with ORS
39 314.085.

40 (8) If a change in the status of a taxpayer from resident to nonresident or from nonres-
41 ident to resident occurs, the credit allowed by this section shall be determined in a manner
42 consistent with ORS 316.117.

43 (9) Refunds attributable to the child tax credit allowed under this section do not bear
44 interest.

45 **SECTION 3.** ORS 316.502, as amended by section 13, chapter 115, Oregon Laws 2022, is

1 amended to read:

2 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and
3 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held
4 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation
5 of the State of Oregon lawfully incurred.

6 (2) A working balance of unreceipted revenue from the tax imposed by this chapter may be re-
7 tained for the payment of refunds, but such working balance shall not at the close of any fiscal year
8 exceed the sum of \$1 million.

9 (3) Moneys are continuously appropriated to the Department of Revenue to make:

10 (a) The refunds authorized under subsection (2) of this section; and

11 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264,
12 315.266 and 316.090 and section 3, chapter 589, Oregon Laws 2021, and section 8, chapter 115,
13 Oregon Laws 2022, **and section 2 of this 2023 Act.**

14 **SECTION 4.** ORS 18.345 is amended to read:

15 18.345. (1) All property, including franchises, or rights or interest therein, of the judgment
16 debtor, shall be liable to an execution, except as provided in this section and in other statutes
17 granting exemptions from execution. The following property, or rights or interest therein of the
18 judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

19 (a) Books, pictures and musical instruments to the value of \$600.

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

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

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

26 (e) Domestic animals and poultry kept for family use, to the total value of \$1,000 and food suf-
27 ficient to support such animals and poultry for 60 days.

28 (f) Household goods, furniture, radios, a television set and utensils all to the total value of
29 \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use
30 of the judgment debtor; provisions actually provided for family use and necessary for the support
31 of a householder and family for 60 days and also 60 days' supply of fuel.

32 (g) All property of the state or any county or incorporated city therein, or of any other public
33 or municipal corporation of like character.

34 (h) All professionally prescribed health aids for the debtor or a dependent of the debtor.

35 (i) Spousal support, child support, or separate maintenance to the extent reasonably necessary
36 for the support of the debtor and any dependent of the debtor.

37 (j) The debtor's right to receive, or property that is traceable to, an award under any crime
38 victim reparation law.

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

42 (L) The debtor's right to receive, or property that is traceable to, a payment in compensation
43 of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent,
44 to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

45 (m) Veterans' benefits and loans.

1 (n) The debtor's right to receive an earned income tax credit under the federal tax laws and any
2 moneys that are traceable to a payment of an earned income tax credit under the federal tax laws.

3 (o) The debtor's right to the assets held in, or right to receive payments under, a medical
4 savings account or health savings account authorized under section 220 or 223 of the Internal Re-
5 venue Code.

6 (p) The debtor's interest, not to exceed \$400 in value, in any personal property. However, this
7 exemption may not be used to increase the amount of any other exemption.

8 **(q) The debtor's right to receive a tax credit under section 2 of this 2023 Act, and any**
9 **moneys that are traceable to a payment of a tax credit under section 2 of this 2023 Act.**

10 (2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of
11 which the execution issued to be of a value in excess of that allowed by the appropriate paragraph
12 of subsection (1) of this section, the officer seizing the property shall proceed to sell such property.
13 Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment
14 debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of sub-
15 section (1) of this section and shall apply the balance of the proceeds of sale on the execution. A
16 sale may not be made under such execution unless the highest bid made exceeds the appropriate
17 exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed
18 by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the
19 judgment creditor.

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

25 (4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or
26 other execution is issued to collect past due support as defined in ORS 18.600, 50 percent of unem-
27 ployment compensation benefits, workers' compensation benefits and other benefits paid to the
28 debtor by the United States, by the state or by a political subdivision of the state are exempt. The
29 exemption related to unemployment compensation benefits provided by this subsection is subject to
30 ORS 657.855. The exemption provided by this subsection applies without regard to whether the
31 payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to
32 a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made
33 under a settlement or judgment on account of personal bodily injury and the garnishment or other
34 execution is issued to collect past due support as defined in ORS 18.600, the lesser of 50 percent of
35 the payment or \$7,500 is exempt.

36 **SECTION 5.** ORS 18.845 is amended to read:

37 18.845. A notice of exemptions form must be in substantially the form set forth in this section.
38 Nothing in the notice form described in this section is intended to expand or restrict the law re-
39 lating to exempt property. A determination as to whether property is exempt from execution, at-
40 tachment and garnishment must be made by reference to other law. The form provided in this
41 section may be modified to provide more information or to update the notice based on subsequent
42 changes in exemption laws.

AND INSTRUCTIONS FOR
CHALLENGE TO GARNISHMENT

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2
3
4 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be
5 reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
6 are enclosed.

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

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

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

13 (a) 75 percent of your take-home wages; or

14 (b) \$254 per workweek.

15 (2) Social Security benefits.

16 (3) Supplemental Security Income (SSI).

17 (4) Public assistance (welfare).

18 (5) Unemployment benefits.

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

20 (7) Workers' compensation benefits.

21 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in
22 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are
23 held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment
24 form if you claim this exemption.

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

27 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied
28 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly
29 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value
30 of the homestead is exempt.

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
43 and their food for 60 days.

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

45 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt

1 may not exceed \$1,000.

2 (20) Public or private pensions.

3 (21) Veterans' benefits and loans.

4 (22) Medical assistance benefits.

5 (23) Health insurance proceeds and disability proceeds of life insurance policies.

6 (24) Cash surrender value of life insurance policies not payable to your estate.

7 (25) Federal annuities.

8 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-
9 emption as wages).

10 (27) Professionally prescribed health aids for you or any of your dependents.

11 *(28) Rental assistance to an elderly person allowed pursuant to ORS 458.375.

12 (29) Your right to receive, or property traceable to:

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

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

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

19 (30) Amounts paid to you as an earned income tax credit under federal tax law.

20 (31) Your right to the assets held in, or right to receive payments under, a medical savings ac-
21 count or health savings account authorized under section 220 or 223 of the Internal Revenue Code.

22 *(32) Interest in personal property to the value of \$400, but this cannot be used to increase the
23 amount of any other exemption.

24 (33) Equitable interests in property.

25 (34) Security deposits or prepaid rent held by a residential landlord under ORS 90.300.

26 (35) If the amount shown as owing on the Debt Calculation form exceeds the amount you actu-
27 ally owe to the creditor, the difference between the amount owed and the amount shown on the Debt
28 Calculation form.

29 **(36) Amounts paid to you as a tax credit under section 2 of this 2023 Act.**

30
31 Note: If two or more people in your household owe the claim or judgment, each of them may
32 claim the exemptions marked by an asterisk (*).

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

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

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

45 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address

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

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

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

14 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-
15 ING PURPOSES:

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

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

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

20
21 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
22 VALIDITY OF THE DEBT.

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

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

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33 **SECTION 6. Section 2 of this 2023 Act applies to tax years beginning on or after January**
34 **1, 2024, and before January 1, 2030.**

35 **SECTION 7. This 2023 Act takes effect on the 91st day after the date on which the 2023**
36 **regular session of the Eighty-second Legislative Assembly adjourns sine die.**