

# House Bill 3235

Sponsored by Representatives VALDERRAMA, GRAYBER, REYNOLDS, SMITH G, Senator CAMPOS; Representatives ANDERSEN, PHAM H, PHAM K, RUIZ, 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 **as introduced**.

Creates refundable child tax credit, calculated based on number of dependents of taxpayer under age of 18. 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) A credit shall be allowed against the tax otherwise due under ORS**  
7 **chapter 316 for the tax year, for each dependent of the taxpayer who is under the age of 18,**  
8 **as provided in subsections (2) and (3) of this section.**

9 **(2) The credit under this section:**

10 **(a) May not be claimed by a taxpayer with adjusted gross income as reported on a joint**  
11 **return in excess of \$50,000, or as reported on an income tax return other than a joint return**  
12 **in excess of \$30,000.**

13 **(b) Shall be \$1,200 per dependent of the taxpayer who is under the age of 18 at the close**  
14 **of the tax year, but, if a taxpayer has an adjusted gross income as reported on a joint return**  
15 **in excess of \$40,000, or as reported on an income tax return other than a joint return in**  
16 **excess of \$20,000, the amount of the credit shall be reduced as provided in subsection (3)(a)**  
17 **or (b) of this section.**

18 **(3) If a reduction under subsection (2) of this section is required, the reduced credit shall**  
19 **be computed by multiplying the amount otherwise available under subsection (2) of this sec-**  
20 **tion by a percentage. The percentage is computed:**

21 **(a) By dividing, by 10,000, the amount by which the taxpayer's adjusted gross income as**  
22 **reported on a joint return exceeds \$40,000; or**

23 **(b) By dividing, by 10,000, the amount by which the taxpayer's adjusted gross income as**  
24 **reported on an income tax return other than a joint return exceeds \$20,000.**

25 **(4)(a) For tax years beginning in each calendar year, the Department of Revenue shall**  
26 **adjust all credit amounts and thresholds set forth in subsections (2) and (3) of this section**  
27 **by multiplying each dollar amount by the cost-of-living adjustment for the calendar year.**

28 **(b) For purposes of paragraph (a) of this subsection, the cost-of-living adjustment for any**

**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 calendar year is the percentage (if any) by which the monthly averaged U.S. City Average  
 2 Consumer Price Index for the 12 consecutive months ending August 31 of the prior calendar  
 3 year exceeds the monthly averaged index for the second quarter of the calendar year 2023.

4 (c) As used in this subsection, “U.S. City Average Consumer Price Index” means the U.S.  
 5 City Average Consumer Price Index for All Urban Consumers (All Items) as published by the  
 6 Bureau of Labor Statistics of the United States Department of Labor.

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

9 (5) If the amount allowable as a credit under this section, when added to the sum of the  
 10 amounts allowable as payment of tax under ORS 316.187 or 316.583, other tax prepayment  
 11 amounts and other refundable credit amounts, exceeds the taxes imposed by ORS chapters  
 12 314 and 316 for the tax year after application of any nonrefundable credits allowable for  
 13 purposes of ORS chapter 316 for the tax year, the amount of the excess shall be refunded to  
 14 the taxpayer as provided in ORS 316.502.

15 (6) An eligible nonresident individual shall be allowed the credit computed in the same  
 16 manner and subject to the same eligibility requirements as the credit allowed a resident by  
 17 subsection (1) of this section. However, the credit shall be prorated using the proportion  
 18 provided in ORS 316.117.

19 (7) If a change in the tax year of a taxpayer occurs as described in ORS 314.085, or if the  
 20 Department of Revenue terminates the taxpayer’s tax year under ORS 314.440, the credit  
 21 allowed by this section shall be prorated or computed in a manner consistent with ORS  
 22 314.085.

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

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

28 **SECTION 3.** ORS 316.502, as amended by section 13, chapter 115, Oregon Laws 2022, is  
 29 amended to read:

30 316.502. (1) The net revenue from the tax imposed by this chapter, after deducting refunds and  
 31 amounts described in ORS 285B.630 and 285C.635, shall be paid over to the State Treasurer and held  
 32 in the General Fund as miscellaneous receipts available generally to meet any expense or obligation  
 33 of the State of Oregon lawfully incurred.

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

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

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

39 (b) The refund payments in excess of tax liability authorized under ORS 315.174, 315.262, 315.264,  
 40 315.266 and 316.090 and section 3, chapter 589, Oregon Laws 2021, and section 8, chapter 115,  
 41 Oregon Laws 2022, and section 2 of this 2023 Act.

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

43 18.345. (1) All property, including franchises, or rights or interest therein, of the judgment  
 44 debtor, shall be liable to an execution, except as provided in this section and in other statutes  
 45 granting exemptions from execution. The following property, or rights or interest therein of the

1 judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

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

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

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

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

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

11 (f) Household goods, furniture, radios, a television set and utensils all to the total value of  
12 \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use  
13 of the judgment debtor; provisions actually provided for family use and necessary for the support  
14 of a householder and family for 60 days and also 60 days’ supply of fuel.

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

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

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

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

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

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

28 (m) Veterans’ benefits and loans.

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

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

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

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

38 (2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of  
39 which the execution issued to be of a value in excess of that allowed by the appropriate paragraph  
40 of subsection (1) of this section, the officer seizing the property shall proceed to sell such property.  
41 Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment  
42 debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of sub-  
43 section (1) of this section and shall apply the balance of the proceeds of sale on the execution. A  
44 sale may not be made under such execution unless the highest bid made exceeds the appropriate  
45 exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed

1 by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the  
 2 judgment creditor.

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

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

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

20 18.845. A notice of exemptions form must be in substantially the form set forth in this section.  
 21 Nothing in the notice form described in this section is intended to expand or restrict the law re-  
 22 lating to exempt property. A determination as to whether property is exempt from execution, at-  
 23 tachment and garnishment must be made by reference to other law. The form provided in this  
 24 section may be modified to provide more information or to update the notice based on subsequent  
 25 changes in exemption laws.

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26  
 27  
 28 **NOTICE OF EXEMPT PROPERTY**  
 29 **AND INSTRUCTIONS FOR**  
 30 **CHALLENGE TO GARNISHMENT**  
 31

32 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may be  
 33 reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers  
 34 are enclosed.

35 **YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-**  
 36 **FULLY.**

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

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

- 41 (a) 75 percent of your take-home wages; or
- 42 (b) \$254 per workweek.
- 43 (2) Social Security benefits.
- 44 (3) Supplemental Security Income (SSI).
- 45 (4) Public assistance (welfare).

- 1 (5) Unemployment benefits.
- 2 (6) Disability benefits (other than SSI benefits).
- 3 (7) Workers' compensation benefits.
- 4 (8) All Social Security benefits and Supplemental Security Income benefits, and up to \$7,500 in  
5 exempt wages, retirement benefits, welfare, unemployment benefits and disability benefits, that are  
6 held in a bank account. You may attach copies of bank statements to the Challenge to Garnishment  
7 form if you claim this exemption.
- 8 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary  
9 for your support or the support of any of your dependents.
- 10 (10) A homestead (house, manufactured dwelling or floating home) occupied by you, or occupied  
11 by your spouse, parent or child. Up to \$40,000 of the value of the homestead is exempt. If you jointly  
12 own the homestead with another person who is also liable on the debt, up to \$50,000 of the value  
13 of the homestead is exempt.
- 14 (11) Proceeds from the sale of a homestead described in item 10, up to the limits described in  
15 item 10, if you hold the proceeds for less than one year and intend to use those proceeds to procure  
16 another homestead.
- 17 (12) Household goods, furniture, radios, a television set and utensils with a combined value not  
18 to exceed \$3,000.
- 19 \*(13) An automobile, truck, trailer or other vehicle with a value not to exceed \$3,000.
- 20 \*(14) Tools, implements, apparatus, team, harness or library that are necessary to carry on your  
21 occupation, with a combined value not to exceed \$5,000.
- 22 \*(15) Books, pictures and musical instruments with a combined value not to exceed \$600.
- 23 \*(16) Wearing apparel, jewelry and other personal items with a combined value not to exceed  
24 \$1,800.
- 25 (17) Domestic animals and poultry for family use with a combined value not to exceed \$1,000  
26 and their food for 60 days.
- 27 (18) Provisions and fuel for your family for 60 days.
- 28 (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt  
29 may not exceed \$1,000.
- 30 (20) Public or private pensions.
- 31 (21) Veterans' benefits and loans.
- 32 (22) Medical assistance benefits.
- 33 (23) Health insurance proceeds and disability proceeds of life insurance policies.
- 34 (24) Cash surrender value of life insurance policies not payable to your estate.
- 35 (25) Federal annuities.
- 36 (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same ex-  
37 emption as wages).
- 38 (27) Professionally prescribed health aids for you or any of your dependents.
- 39 \*(28) Rental assistance to an elderly person allowed pursuant to ORS 458.375.
- 40 (29) Your right to receive, or property traceable to:
  - 41 (a) An award under any crime victim reparation law.
  - 42 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-  
43 jury suffered by you or an individual of whom you are a dependent.
  - 44 (c) A payment in compensation of loss of future earnings of you or an individual of whom you  
45 are or were a dependent, to the extent reasonably necessary for your support and the support of

1 any of your dependents.

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

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

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

7 (33) Equitable interests in property.

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

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

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

13  
14 Note: If two or more people in your household owe the claim or judgment, each of them may  
15 claim the exemptions marked by an asterisk (\*).

16  
17  
18 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND  
19 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt  
20 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-  
21 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but  
22 only 50 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support  
23 obligation.

24  
25 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.  
26 You may seek to reclaim your exempt property by doing the following:

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

28 (2) Mail or deliver the Challenge to Garnishment form to the court administrator at the address  
29 shown on the writ of garnishment, and mail or deliver a copy of the form to the Garnishor at the  
30 address shown on the writ of garnishment. If you wish to claim wages or salary as exempt, you must  
31 mail or deliver the form within 120 days after you receive this notice. If you wish to claim that any  
32 other money or property is exempt, or claim that the property is not subject to garnishment, you  
33 must mail or deliver the form within 30 days after you receive this notice. You have the burden of  
34 showing that your challenge is made on time, so you should keep records showing when the chal-  
35 lenge was mailed or delivered.

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

39  
40 You should be prepared to explain your exemption in court. If you have any questions about the  
41 garnishment or the debt, you should see an attorney.

42 YOU MAY USE THE CHALLENGE TO GARNISHMENT FORM ONLY FOR THE FOLLOW-  
43 ING PURPOSES:

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

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

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

3  
4 **YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE**  
5 **VALIDITY OF THE DEBT.**

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

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

14 \_\_\_\_\_  
15  
16 **SECTION 6. Section 2 of this 2023 Act applies to tax years beginning on or after January**  
17 **1, 2024, and before January 1, 2030.**

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