

SB 1595 -2 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/7, 2/12

WHAT THE MEASURE DOES:

The measure exempts from execution of judgment or garnishment specific property and funds of judgment debtor. It also repeals statute providing that when debt collector is in compliance with Fair Debt Collection Practices Act the debt collector is also in compliance with the requirements of Oregon's debt collection practices. The measure specifies the process for a court to impose attorney fees and costs to plaintiff or defendant following civil action for unlawful debt collection practices and increases amount of damage award available. Takes effect on the 91st day following adjournment sine die.

Detailed Summary:

Section 1

Exempts from execution of judgment a vehicle valued up to \$10,000 except when the judgment is for child or spousal support or restitution the vehicle exemption remains at \$3,000.

Section 3

Increases amount of disposable earnings exempt from execution of judgment. Establishes schedule of amount of disposable earnings to be exempt from execution of judgment based on wages payable within a certain year and payment type. Directs the State Court Administrator to calculate these exemption amounts each year on or before July 1 and publish them on the Judicial Department website. Maintains the current amount of disposable earnings exempted from garnishment for child or spousal support or restitution.

Section 4

Increases amount of homestead exemption protected from sale on execution of judgment or lien except for debts for child or spousal support or restitution. Directs the State Court Administrator to index the homestead exemption amount each year on or before July to reflect increases or decreases based on cost of living from the previous year and publish the adjusted exemption amounts on the Judicial Department website. Exempts the exemption adjustment for debts arising from spousal or child support, or restitution.

Section 10

Defines key terms. Specifies process financial institutions must take when financial institutions receive writ of garnishment for a debtor that has an account with the financial institution.

Sections 18-19

Specifies notice of exemption form when judgment debtor's debt is from child or spousal support, or restitution.

Sections 26-27

Specifies challenge to execution form when judgment debtor's debt is from child or spousal support, or restitution.

Section 29

Specifies that it is an unlawful collection practice for debt collector to collect or attempt to collect a debt or any interest fee, charge, or expense incidental to the original obligation when debt collector knows or has reason to know that the debt does not exist, is not owed by the debtor, or is not allowed by the contract creating the debt or law.

Section 30

Increases amount of damage award available for civil action for unlawful debt collection practice. Specifies that a court may award reasonable attorney fees and costs to a prevailing plaintiff following civil action for unlawful debt collection practice. Specifies that court may award reasonable attorney fees and costs to prevailing defendant only if court finds that the plaintiff had no objectively reasonable basis for bringing the civil action for unlawful debt collection practice.

Section 31

Repeals statute providing that a debt collector subject to and in compliance with Fair Debt Collection Practices Act is also in compliance with the requirements of Oregon's debt collection practices.

Section 33

Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Prevalence of collecting debts from the wrong person or in the wrong amount
- Impact of current property and fund exemption from garnishment and execution of judgment
- Role of Attorney General in enforcing Unlawful Debt Collection Practices Act
- Current court process for debt collection cases
- Potential impact of measure on obtaining credit

EFFECT OF AMENDMENT:

-2 Replaces the measure. The measure exempts from execution of judgment or garnishment specific property and funds of judgment debtor. It also repeals statute providing that when debt collector is in compliance with Fair Debt Collection Practices Act the debt collector is also in compliance with the requirements of Oregon's debt collection practices. The measure specifies the process for a court to impose attorney fees and costs to plaintiff or defendant following civil action for unlawful debt collection practices and increases amount of damage award available. Declares emergency, effective on passage.

REVENUE: May have revenue impact, but no statement yet issued

FISCAL: May have fiscal impact, but no statement yet issued

Detailed Summary:

Section 1

Exempts from execution of judgment a vehicle valued up to \$10,000 except when the judgment is for child or spousal support or restitution the vehicle exemption is \$3,000.

Section 3

Increases amount of disposable earnings exempt from execution of judgment starting January 1, 2025. Establishes schedule of amount of disposable earnings to be exempt from execution of judgment based on wages payable within a certain year and payment type. Directs the State Court Administrator to calculate these exemption amounts each year on or before July 1, beginning 2027, and publish them on the Judicial Department website.

Maintains the current amount of disposable earnings exempted from garnishment for child or spousal support or restitution.

Section 4

Increases amount of homestead exemption protected from sale on execution of judgment or lien except for debts for child or spousal support or restitution. Directs the State Court Administrator to index the homestead exemption amount each year on or before July to reflect increases or decreases based on cost of living from the previous year and publish the adjusted exemption amounts on the Judicial Department website. Exempts the exemption adjustment for debts arising from spousal or child support, or restitution.

Section 10

Defines key terms. Specifies process financial institutions must take when financial institutions receive writ of garnishment for a debtor that has an account with the financial institution.

Sections 18-19

Specifies notice of exemption form when judgment debtor's debt is from child or spousal support, or restitution.

Sections 26-27

Specifies challenge to execution form when judgment debtor's debt is from child or spousal support, or restitution.

Section 29

Specifies that it is an unlawful collection practice for a debt collector to collect or attempt to collect by any means, including through legal action, interest or other charges or fees that exceed the actual debt unless there is an agreement or contract that expressly authorizes, or a law allows, the interest or other charges or fees. Provides that debt collector will not be held liable if debt collector shows by a preponderance of the evidence that the violation was not intentional and resulted from bona fide error. Specifies that it is an unlawful collection practice for debt collector to collect or attempt to collect by any means, including through legal action, a debt that the debt collector knows or should know does not exist or is not owed by the debtor. Provides that a debt collector will not be liable if the debt collector shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error.

Section 30

Increases amount of damage award available for civil action for unlawful debt collection practice. Specifies that a court may award reasonable attorney fees and costs to a prevailing plaintiff following civil action for unlawful debt collection practice. Specifies that court may award reasonable attorney fees and costs to prevailing defendant only if court finds that the plaintiff had no objectively reasonable basis for bringing the civil action for unlawful debt collection practice. Changes statute of limitation for these civil actions from within one year to within three years.

Section 31

Repeals statute providing that a debt collector subject to and in compliance with Fair Debt Collection Practices Act is also in compliance with the requirements of Oregon's debt collection practices.

Section 32

Makes specified sections operative on January 1, 2025.

Section 33

Declares emergency, effective on passage.

BACKGROUND:

The Unlawful Debt Collection Practices Act (UDCPA) controls how a creditor, including a collection agency, may attempt to collect a debt. Unlawful debt collection practices include the use of obscene, threatening, or abusive language; communications without permission or threats of communication with employer; communications in writing without clear identification of debtor and debt collector, in writing or orally; or pursuit of debtor for an incorrect amount or for a debt not owed. A creditor who willfully violates the UDCPA may be liable for minimum damages of \$200, legal fees, and in some cases punitive damages.

Senate Bill 1595 exempts from execution of judgment or garnishment specific property and funds of judgment debtor and increases amount of damage award available for violation of UDCPA.