

# House Bill 2304

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Committee on Judiciary for Oregon Collectors Association)

## 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**.

Increases from \$4 to \$7 amount that judgment creditor may recover from judgment debtor for fees paid to attorney to issue writ of garnishment.

Increases fee from \$4 to \$7 for issuance of writ of garnishment or writ of execution by clerk of circuit court.

## A BILL FOR AN ACT

1  
2 Relating to execution on debts; creating new provisions; and amending ORS 18.910 and 21.325.

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

4 **SECTION 1.** ORS 18.910 is amended to read:

5 18.910. This section establishes the right of a plaintiff to recover certain moneys the plaintiff  
6 has expended to recover a debt under ORS 18.900 or to enforce a judgment and establishes proce-  
7 dures for that recovery. The following apply to this section:

8 (1) When a plaintiff receives moneys under a garnishment, attachment or payment, the plaintiff  
9 may proceed as follows:

10 (a) Before crediting the total amount of moneys received against the judgment or debt, the  
11 plaintiff may recover and keep from the total amount received under the garnishment, attachment  
12 or payment any moneys allowed to be recovered under this section.

13 (b) After recovering moneys as allowed under paragraph (a) of this subsection, the plaintiff shall  
14 credit the remainder of the moneys received against the judgment or debt as provided by law.

15 (2) Moneys recovered under subsection (1)(a) of this section shall not be considered moneys paid  
16 on and to be credited against the original judgment or debt sought to be enforced. No additional  
17 judgment is necessary to recover moneys in the manner provided in subsection (1)(a) of this section.

18 (3) The only moneys a plaintiff may recover under subsection (1)(a) of this section are those  
19 described in subsection (4) of this section that the plaintiff has paid to enforce the existing specific  
20 judgment or debt that the specific garnishment or attachment was issued to enforce or upon which  
21 the payment was received. Moneys recoverable under subsection (1)(a) of this section remain re-  
22 coverable and, except as provided under subsection (8) of this section, may be recovered from mon-  
23 eys received by the plaintiff under subsequent garnishments, attachments or payments on the same  
24 specific judgment or debt.

25 (4) This section allows the recovery only of the following:

26 (a) Statutorily established moneys that meet the requirements under subsection (3) of this sec-  
27 tion, as follows:

28 (A) Garnishee's search fees under ORS 18.790.

29 (B) Fees for delivery of writs of garnishment under ORS 18.652.

30 (C) Circuit court fees as provided under ORS 21.325.

**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 (D) County court fees as provided under ORS 5.125.

2 (E) County clerk recording fees as provided in ORS 205.320.

3 (F) Actual fees or disbursements made under ORS 21.410.

4 (G) Costs of execution as provided in ORS 105.112.

5 (H) Fees paid to an attorney for issuing a garnishment in an amount not to exceed [~~\$4~~] **\$7** for  
6 each garnishment.

7 (b) Interest on the amounts specified in paragraph (a) of this subsection at the rate provided for  
8 judgments in ORS 82.010 for the period of time beginning with the expenditure of the amount and  
9 ending upon recovery of the amount under this section.

10 (5) The plaintiff shall be responsible for doing all of the following:

11 (a) Maintaining a precise accounting of moneys recovered under subsection (1)(a) of this section  
12 and making the accounting available for any proceeding relating to that judgment or debt.

13 (b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under sub-  
14 section (1)(a) of this section.

15 (6) Moneys recovered under subsection (1)(a) of this section remain subject to all other pro-  
16 visions of law relating to payments, or garnished or attached moneys including, but not limited to,  
17 those relating to exemption, claim of exemption, overpayment and holding periods.

18 (7) Nothing in this section limits the right of a plaintiff to recover moneys described in this  
19 section or other moneys in any manner otherwise allowed by law.

20 (8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recov-  
21 erable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced  
22 to a judgment or to a debt enforceable under ORS 18.900.

23 **SECTION 2.** ORS 21.325 is amended to read:

24 21.325. (1) In the circuit court there shall be charged and collected in advance by the clerk of  
25 the court the following fees for the following purposes and services:

26 (a) Making transcription of a judgment entered in the register, \$6.

27 (b) Filing and entering transcript of judgment, \$6.

28 (c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
29 copy of child custody determination of another state filed as provided in ORS 109.787, \$35.

30 (d) Issuing writs of execution or writs of garnishment, [~~\$4~~] **\$7** for each writ.

31 (e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$5.

32 (f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is  
33 issued by any court other than the court in which the original judgment was entered, \$4.

34 (g) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

35 (h) For any service the clerk may be required or authorized to perform and for which no fee is  
36 provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize,  
37 except that a fee may not be charged for location or inspection of court records.

38 (2) In addition to the fees provided for in subsection (1) of this section, for the period com-  
39 mencing September 1, 2003, and ending June 30, 2005, the clerk of the court shall charge and collect  
40 the following surcharges on the following services:

41 (a) Making transcription of a judgment entered in the register, \$2.

42 (b) Filing and entering transcript of judgment, \$2.

43 (c) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
44 copy of child custody determination of another state filed as provided in ORS 109.787, \$11.

45 (d) Issuing writs of execution or writs of garnishment, \$1 for each writ.

1 (e) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$2.

2 (f) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is  
3 issued by any court other than the court in which the original judgment was entered, \$1.

4 (g) Issuing notices of restitution as provided in ORS 105.151, \$1 for each notice.

5 **SECTION 3.** ORS 21.325, as amended by section 30c, chapter 737, Oregon Laws 2003, is  
6 amended to read:

7 21.325. In the circuit court there shall be charged and collected in advance by the clerk of the  
8 court the following fees for the following purposes and services:

9 (1) Making transcription of a judgment entered in the register, \$7.

10 (2) Filing and entering transcript of judgment, \$7.

11 (3) Filing copy of foreign judgment and affidavit filed as provided in ORS 24.115 and 24.125 or  
12 copy of child custody determination of another state filed as provided in ORS 109.787, \$39.

13 (4) Issuing writs of execution or writs of garnishment, [~~\$4~~] **\$7** for each writ.

14 (5) Preparing a certified copy of a satisfaction document under ORS 18.225 (5), \$6.

15 (6) Issuing an order under ORS 18.265 requiring a judgment debtor to appear when the order is  
16 issued by any court other than the court in which the original judgment was entered, \$4.

17 (7) Issuing notices of restitution as provided in ORS 105.151, \$3 for each notice.

18 (8) For any service the clerk may be required or authorized to perform and for which no fee is  
19 provided by law, such fees as the Chief Justice of the Supreme Court may establish or authorize,  
20 except that a fee may not be charged for location or inspection of court records.

21 **SECTION 4. The amendments to ORS 18.910 and 21.325 by sections 1, 2 and 3 of this 2005**  
22 **Act apply only to writs of execution and writs of garnishment issued on or after the effective**  
23 **date of this 2005 Act.**

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