

Enrolled House Bill 2305

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)

CHAPTER

AN ACT

Relating to garnishment; amending ORS 18.655.

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

SECTION 1. ORS 18.655 is amended to read:

18.655. (1) Except as otherwise provided in this section, a writ of garnishment may be delivered to any of the following persons:

[(a) If the property of the debtor is in the possession, control or custody of an individual, the writ may be delivered to the individual. If the individual maintains an office for the conduct of business, office delivery may be made by leaving all of the items required by ORS 18.650 (1) at the office during normal working hours with the person who is apparently in charge. If office delivery is used, the person delivering the writ, as soon as reasonably possible, shall cause to be mailed by first class mail all of the items required by ORS 18.650 (1) to the garnishee at the garnishee's place of business or such other place under the circumstances that is most reasonably calculated to apprise the garnishee of the garnishment, together with a statement of the date, time and place at which office delivery was made. Delivery under this paragraph is effective upon the receipt of the writ by the person who is apparently in charge of the office.]

[(b) If the property of the debtor is in the possession, control or custody of a partnership, the writ may be delivered to any partner or to any person designated by the partnership to accept service of a writ of garnishment. However, if the partnership is a limited partnership, the writ of garnishment may be delivered only to a general partner or to a person designated by the partnership to accept service.]

(a) If the property of the debtor is in the possession, control or custody of an individual, the writ may be delivered to the individual. If the individual is the sole proprietor of a business, the writ may also be delivered to any person designated by the individual to accept service of a writ of garnishment. If the individual maintains an office for the conduct of business, office delivery may be made under subsection (6) of this section.

(b) If the property of the debtor is in the possession, control or custody of a partnership other than a limited partnership, the writ may be delivered to any partner or to any person designated by the partnership to accept service of a writ of garnishment. If the partnership is a limited partnership, the writ of garnishment may be delivered only to a general partner or to a person designated by the partnership to accept service. If the partnership maintains an office for the conduct of business, office delivery may be made under subsection (6) of this section.

(c) If the property of the debtor is in the possession, control or custody of a corporation, the writ may be delivered to any officer or managing agent of the corporation or to any person designated by the corporation to accept service.

(d) If the property of the debtor is in the possession, control or custody of a limited liability company, the writ may be delivered to any member of the company or to any person designated by the company to accept service.

(e) If the property of the debtor is in the possession, control or custody of a financial institution, the writ may be delivered to the manager, assistant manager or other designated person at any office or branch of the financial institution where deposits are received or that has been designated by the institution as a place for receiving writs of garnishment. Delivery of a writ in the manner prescribed in this paragraph is effective to garnish all property of the debtor held at all offices and branches of the financial institution located in this state.

(f) If the property of the debtor is in the possession, control or custody of a public body, as defined in ORS 174.109, the writ may be delivered to the board, department, institution, commission or officer charged with approving a claim for the property, or to such person or place as may be designated by the public body.

(2) Notwithstanding ORS 78.1120 (2), if the property of the debtor is money that is owed to the debtor that is not evidenced by a negotiable instrument, certificate, document or similar instrument, the writ of garnishment must be delivered to the person who owes the money in the manner provided by subsection (1) of this section.

(3) Notwithstanding ORS 78.1120 (2), if the property of the debtor is stock in a corporation, other than stock represented by a negotiable certificate or similar instrument, the writ of garnishment must be delivered to the corporation in the manner provided by subsection (1) of this section.

(4) Notwithstanding ORS 77.6020 and 78.1120, if the property of the debtor is a negotiable instrument, certificate, document or similar instrument, the writ of garnishment must be delivered to the person having possession of the instrument in the manner provided by subsection (1) of this section. The garnishment does not limit the rights of a holder in due course of a negotiable instrument under ORS 73.0302, a holder to whom a negotiable document has been duly negotiated under ORS 77.5010 or a protected purchaser of a security under ORS 78.3030.

(5) If the property of the debtor is an interest of an heir or legatee in an estate of a decedent, the writ of garnishment must be delivered to the personal representative of the estate in the manner provided by subsection (1) of this section.

(6) For the purposes of subsection (1)(a) and (b) of this section, office delivery may be made by leaving all of the items required by ORS 18.650 (1) at the office during normal working hours with the person who is apparently in charge. If office delivery is used, the person delivering the writ, as soon as reasonably possible, shall cause to be mailed by first class mail all of the items required by ORS 18.650 (1) to the garnishee at the garnishee's place of business or such other place under the circumstances that is most reasonably calculated to apprise the garnishee of the garnishment, together with a statement of the date, time and place at which office delivery was made. Office delivery under this subsection is effective upon the receipt of the writ by the person who is apparently in charge of the office.

Passed by House February 21, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 6, 2005

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

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Secretary of State