

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)

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**.

Allows delivery of writ of garnishment to person designated by sole proprietor to accept service.

A BILL FOR AN ACT

1
2 Relating to garnishment; amending ORS 18.655.

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

4 **SECTION 1.** ORS 18.655 is amended to read:

5 18.655. (1) Except as otherwise provided in this section, a writ of garnishment may be delivered
6 to any of the following persons:

7 (a) If the property of the debtor is in the possession, control or custody of an individual, the
8 writ may be delivered to the individual. **If the individual is the sole proprietor of a business, the**
9 **writ may also be delivered to any person designated by the individual to accept service of a**
10 **writ of garnishment. In addition,** if the individual maintains an office for the conduct of business,
11 office delivery may be made by leaving all of the items required by ORS 18.650 (1) at the office
12 during normal working hours with the person who is apparently in charge. If office delivery is used,
13 the person delivering the writ, as soon as reasonably possible, shall cause to be mailed by first class
14 mail all of the items required by ORS 18.650 (1) to the garnishee at the garnishee's place of business
15 or such other place under the circumstances that is most reasonably calculated to apprise the
16 garnishee of the garnishment, together with a statement of the date, time and place at which office
17 delivery was made. **Office** delivery under this paragraph is effective upon the receipt of the writ by
18 the person who is apparently in charge of the office.

19 (b) If the property of the debtor is in the possession, control or custody of a partnership, the
20 writ may be delivered to any partner or to any person designated by the partnership to accept ser-
21 vice of a writ of garnishment. However, if the partnership is a limited partnership, the writ of
22 garnishment may be delivered only to a general partner or to a person designated by the partnership
23 to accept service.

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

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

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

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

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

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

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

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

26