

A-Engrossed
Senate Bill 273

Ordered by the Senate April 20
Including Senate Amendments dated April 20

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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.

Increases homestead exemption from \$25,000 to [*\$50,000*] **\$30,000** for single debtor, and from \$33,000 to [*\$75,000*] **\$39,600** for joint debtors who are members of same household.

Increases exemption for motor vehicle from \$1,700 to [*\$3,000*] **\$2,150**.

A BILL FOR AN ACT

1
2 Relating to exemptions from execution; creating new provisions; and amending ORS 18.345, 18.395,
3 18.402, 18.412, 18.512 and 18.845.

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

5 **SECTION 1.** ORS 18.345 is amended to read:

6 18.345. (1) All property, including franchises, or rights or interest therein, of the judgment
7 debtor, shall be liable to an execution, except as provided in this section and in other statutes
8 granting exemptions from execution. The following property, or rights or interest therein of the
9 judgment debtor, except as provided in ORS 18.305, shall be exempt from execution:

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

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

12 (c) The tools, implements, apparatus, team, harness or library, necessary to enable the judgment
13 debtor to carry on the trade, occupation or profession by which the judgment debtor habitually
14 earns a living, to the value of \$3,000.

15 (d) A vehicle to the value of [*\$1,700*] **\$2,150**. As used in this paragraph "vehicle" includes an
16 automobile, truck, trailer, truck and trailer or other motor vehicle.

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

19 (f) Household goods, furniture, radios, a television set and utensils all to the total value of
20 \$3,000, if the judgment debtor holds the property primarily for the personal, family or household use
21 of the judgment debtor; provisions actually provided for family use and necessary for the support
22 of a householder and family for 60 days and also 60 days' supply of fuel.

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

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

26 (i) Spousal support, child support, or separate maintenance to the extent reasonably necessary

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 for the support of the debtor and any dependent of the debtor.

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

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

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

10 (m) Veterans' benefits and loans.

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

13 (o) The debtor's interest, not to exceed \$400 in value, in any personal property. However, this
14 exemption may not be used to increase the amount of any other exemption.

15 (2) If the property claimed by the judgment debtor as exempt is adjudicated by the court out of
16 which the execution issued to be of a value in excess of that allowed by the appropriate paragraph
17 of subsection (1) of this section, the officer seizing the property shall proceed to sell such property.
18 Out of the proceeds of such sale, the officer shall deduct costs of sale and shall pay to the judgment
19 debtor an amount equivalent to the value declared to be exempt by any of the paragraphs of sub-
20 section (1) of this section and shall apply the balance of the proceeds of sale on the execution. A
21 sale may not be made under such execution unless the highest bid made exceeds the appropriate
22 exemption claimed and allowed plus costs of sale. If no bid is received in excess of the value allowed
23 by the appropriate paragraph of subsection (1) of this section, the costs of sale shall be borne by the
24 judgment creditor.

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

30 (4) Notwithstanding any other provision of law except ORS 657.855, if a writ of garnishment or
31 other execution is issued to collect past due support as defined in ORS 18.600, 75 percent of unem-
32 ployment compensation benefits, workers' compensation benefits and other benefits paid to the
33 debtor by the United States, by the state or by a political subdivision of the state are exempt. The
34 exemption related to unemployment compensation benefits provided by this subsection is subject to
35 ORS 657.855. The exemption provided by this subsection applies without regard to whether the
36 payment is made on a periodic basis or in a lump sum, including any lump sum payable pursuant to
37 a settlement or judgment. Notwithstanding subsection (1)(k) of this section, if a payment is made
38 under a settlement or judgment on account of personal bodily injury and the garnishment or other
39 execution is issued to collect past due support as defined in ORS 18.600, the lesser of 75 percent of
40 the payment or \$7,500 is exempt.

41 **SECTION 2.** ORS 18.395 is amended to read:

42 18.395. (1) A homestead shall be exempt from sale on execution, from the lien of every judgment
43 and from liability in any form for the debts of the owner to the amount in value of [~~\$25,000~~
44 **\$30,000**, except as otherwise provided by law. The exemption shall be effective without the necessity
45 of a claim thereof by the judgment debtor. When two or more members of a household are debtors

1 whose interests in the homestead are subject to sale on execution, the lien of a judgment or liability
2 in any form, their combined exemptions under this section shall not exceed [~~\$33,000~~] **\$39,600**. The
3 homestead must be the actual abode of and occupied by the owner, or the owner's spouse, parent
4 or child, but the exemption shall not be impaired by:

5 (a) Temporary removal or temporary absence with the intention to reoccupy the same as a
6 homestead;

7 (b) Removal or absence from the property; or

8 (c) The sale of the property.

9 (2) The exemption shall extend to the proceeds derived from such sale to an amount not ex-
10 ceeding [~~\$25,000~~] **\$30,000** or [~~\$33,000~~] **\$39,600**, whichever amount is applicable under subsection (1)
11 of this section, if the proceeds are held for a period not exceeding one year and held with the in-
12 tention to procure another homestead therewith.

13 (3) The exemption period under subsection (1)(b) and (c) of this section shall be one year from
14 the removal, absence or sale, whichever occurs first.

15 (4) When the owner of a homestead has been granted a discharge in bankruptcy or has conveyed
16 the homestead property, the value thereof, for the purpose of determining a leviable interest in ex-
17 cess of the homestead exemption, shall be the value on the date of the petition in bankruptcy,
18 whether the value is determined in the bankruptcy proceedings or not, or on the date the
19 conveyance becomes effective, whichever shall first occur. However, with respect to judgments not
20 discharged in the bankruptcy, or entered against the owner after discharge, the value on the effec-
21 tive date of conveyance shall be controlling.

22 (5) Except as provided in subsection (7) of this section, no homestead that is the actual abode
23 of and occupied by the judgment debtor, or that is the actual abode of and occupied by a spouse,
24 dependent parent or dependent child of the judgment debtor, shall be sold on execution to satisfy a
25 judgment that at the time of entry does not exceed \$3,000. However, such judgment shall remain a
26 lien upon the real property, and the property may be sold on execution:

27 (a) At any time after the sale of the property by the judgment debtor; and

28 (b) At any time after the property is no longer the actual abode of and occupied by the judgment
29 debtor or the spouse, dependent parent or dependent child of the judgment debtor.

30 (6) The limitation on execution sales imposed by subsection (5) of this section is not impaired
31 by temporary removal or temporary absence with the intention to reoccupy the property as a
32 homestead.

33 (7) The limitation on execution sales imposed by subsection (5) of this section does not apply if
34 two or more judgments are owing to a single judgment creditor and the total amount owing to the
35 judgment creditor, determined by adding the amount of each individual judgment as of the date the
36 judgment was entered, is greater than \$3,000.

37 (8) Upon the issuance of an order authorizing sale as provided in ORS 18.536, and in conform-
38 ance with subsection (5) of this section, the levying officer may proceed to advertise and sell the
39 property. If the homestead exemption applies, the levying officer shall pay the homestead owner out
40 of the proceeds the sum of [~~\$25,000~~] **\$30,000** or [~~\$33,000~~] **\$39,600**, whichever is applicable, and apply
41 the balance of the proceeds on the execution. However, no sale shall be made where the homestead
42 exemption applies unless the sum bid for the homestead is in excess of the sum of the costs of sale
43 and [~~\$25,000~~] **\$30,000** or [~~\$33,000~~] **\$39,600**, whichever is applicable. If no such bid is received, the
44 expense of the advertising and preparation for sale shall be borne by the petitioner.

45 **SECTION 3.** ORS 18.402 is amended to read:

1 18.402. The homestead mentioned in ORS 18.395 shall consist, when not located in any town or
2 city laid off into blocks and lots, of any quantity of land not exceeding 160 acres, and when located
3 in any such town or city, of any quantity of land not exceeding one block. However, a homestead
4 under this section shall not exceed in value the sum of [~~\$25,000~~] **\$30,000** or [~~\$33,000~~] **\$39,600**,
5 whichever amount is applicable under ORS 18.395 (1).

6 **SECTION 4.** ORS 18.412 is amended to read:

7 18.412. (1) At any time after the date of execution of an agreement to transfer the ownership
8 of property in which a homestead exemption exists pursuant to ORS 18.395, the homestead owner
9 or the owner's transferee may give notice of intent to discharge the property from the judgment lien
10 to a judgment creditor. Each notice shall be styled as a paper in the action in which the judgment
11 was recovered and shall:

12 (a) Identify the property and the judgment and state that the judgment debtor is about to
13 transfer, or has transferred, the property and that the transfer is intended to discharge the property
14 from any lien effect of the judgment;

15 (b) State the fair market value of the property on the date of the notice or of any applicable
16 petition in bankruptcy, whichever is applicable, and list the encumbrances against the property, in-
17 cluding the nature and date of each encumbrance, the name of the encumbrancer and the amount
18 presently secured by each encumbrance;

19 (c) State that the property is claimed by the person giving the notice to be wholly exempt from
20 the lien of the judgment or, if the value of the property exceeds the sum of the encumbrances
21 specified as required under paragraph (b) of this subsection that are senior to the judgment lien and
22 [~~\$25,000~~] **\$30,000** or [~~\$33,000~~] **\$39,600**, whichever amount of the homestead exemption is applicable
23 under ORS 18.395 (1), that the amount of the excess or the amount due on the judgment, whichever
24 is less, will be deposited with the court administrator for the court in which the judgment was en-
25 tered for the use of the judgment holder; and

26 (d) Advise the holder of the judgment that the property may be discharged from any lien arising
27 from the judgment, without further notice to the judgment creditor, unless prior to a specified date,
28 which in no case may be earlier than 14 days after the date of mailing of the notice, the judgment
29 creditor files objections and a request for a hearing on the matter as provided in ORS 18.415.

30 (2) Each notice described by subsection (1) of this section shall be sent by certified mail to the
31 judgment creditor, as shown by the court records, at the judgment creditor's present or last-known
32 address according to the best knowledge of the person sending the notice. A copy of each notice,
33 together with proof of mailing, may be filed with the court administrator for the court in which the
34 judgment was entered and shall be filed by the court administrator with the records and files of the
35 action in which the judgment was recovered.

36 **SECTION 5.** ORS 18.512 is amended to read:

37 18.512. (1) The challenge to execution form described in this section does not expand or restrict
38 the law relating to exempt property. A determination as to whether property is exempt from at-
39 tachment or execution must be made by reference to other law. The form provided in this section
40 may be modified to provide more information or to update the notice based on subsequent changes
41 in exemption laws.

42 (2) A challenge to execution form must be in substantially the following form:

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45 _____ COURT

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COUNTY OF _____

_____) CHALLENGE TO
Plaintiff,) EXECUTION
)
vs.) Case No. _____
)
_____)
Defendant.)

THIS FORM MAY BE USED BY THE DEBTOR ONLY TO CLAIM SUCH EXEMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

THIS FORM MAY BE USED BY PERSONS OTHER THAN THE DEBTOR ONLY TO CLAIM AN INTEREST IN THE PROPERTY THAT IS TO BE SOLD ON EXECUTION.

THIS FORM MAY NOT BE USED TO CHALLENGE THE VALIDITY OF THE DEBT.

I/We claim that the following described property or money is exempt from execution:

I/We believe this property is exempt from execution because (the Notice of Exempt Property at the end of this form describes most types of property that you can claim as exempt from execution):

I am a person other than the Debtor and I have the following interest in the property:

Name _____ Name _____
Signature _____ Signature _____
Address _____ Address _____

Telephone Telephone
Number _____ Number _____
(Required) (Required)

1 YOU MUST ACT PROMPTLY IF YOU WANT TO GET YOUR MONEY OR PROPERTY BACK.

2 You may seek to reclaim your exempt property by doing the following:

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

4 (2) Mail or deliver the Challenge to Execution form to the court administrator at the address
5 shown on the writ of execution.

6 You should be prepared to explain your exemption in court. If you have any questions about the
7 execution or the debt, you should see an attorney.

8
9 YOU MAY USE THE CHALLENGE TO EXECUTION FORM ONLY TO CLAIM SUCH EX-
10 EMPTIONS FROM EXECUTION AS ARE PERMITTED BY LAW.

11
12 YOU MAY NOT USE THE CHALLENGE TO EXECUTION FORM TO CHALLENGE THE
13 VALIDITY OF THE DEBT.

14
15 IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES
16 IMPOSED BY THE COURT THAT COULD INCLUDE A FINE. Penalties that you could be subject
17 to are listed in ORS 18.518.

18
19 NOTICE OF EXEMPT PROPERTY

20
21 Property belonging to you may have been taken or held in order to satisfy a debt. The debt may
22 be reflected in a judgment or in a warrant or order issued by a state agency. Important legal papers
23 are enclosed.

24 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
25 FULLY.

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

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

30 (a) 75 percent of your take-home wages; or

31 (b) \$170 per workweek.

32 (2) Social Security benefits.

33 (3) Supplemental Security Income (SSI).

34 (4) Public assistance (welfare).

35 (5) Unemployment benefits.

36 (6) Disability benefits (other than SSI benefits).

37 (7) Workers' compensation benefits.

38 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and
39 disability benefits when placed in a checking or savings account (up to \$7,500).

40 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
41 for your support or the support of any of your dependents.

42 (10) A homestead (*[home, farm, manufactured dwelling]* **house, mobile home** or houseboat) *[if*
43 *you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000*
44 *for any other homestead with land included) or proceeds from its sale for one year] **occupied by you,***
45 **or occupied by your spouse, parent or child. The value of the homestead is exempt up to the**

1 **following amounts:**

2 (a) For a mobile home or houseboat located on land that is not owned by you, \$20,000. If
3 you jointly own the mobile home or houseboat with another person who is also liable on the
4 debt, \$27,000.

5 (b) For a mobile home or houseboat located on land that is owned by you, \$23,000. If you
6 jointly own the mobile home or houseboat with another person who is also liable on the debt,
7 \$30,000.

8 (c) For any other homestead, \$30,000. If you jointly own the homestead with another
9 person who is also liable on the debt, \$39,600.

10 (11) Proceeds from the sale of a homestead described in item 10, up to the limits de-
11 scribed in item 10, if you hold the proceeds for less than one year and intend to use those
12 proceeds to procure another homestead.

13 [(11)] (12) Household goods, furniture, radios, a television set and utensils with a combined value
14 not to exceed \$3,000.

15 *[(12)] (13) An automobile, truck, trailer or other vehicle with a value not to exceed [,\$1,700]
16 \$2,150.

17 *[(13)] (14) Tools, implements, apparatus, team, harness or library that are necessary to carry
18 on your occupation, with a combined value not to exceed \$3,000.

19 *[(14)] (15) Books, pictures and musical instruments with a combined value not to exceed \$600.

20 *[(15)] (16) Wearing apparel, jewelry and other personal items with a combined value not to
21 exceed \$1,800.

22 [(16)] (17) Domestic animals and poultry for family use with a combined value not to exceed
23 \$1,000 and their food for 60 days.

24 [(17)] (18) Provisions [(food)] and fuel for your family for 60 days.

25 [(18)] (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as
26 exempt may not exceed \$1,000.

27 [(19)] (20) Public or private pensions.

28 [(20)] (21) Veterans' benefits and loans.

29 [(21)] (22) Medical assistance benefits.

30 [(22)] (23) Health insurance proceeds and disability proceeds of life insurance policies.

31 [(23)] (24) Cash surrender value of life insurance policies not payable to your estate.

32 [(24)] (25) Federal annuities.

33 [(25)] (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same
34 exemption as wages).

35 [(26)] (27) Professionally prescribed health aids for you or any of your dependents.

36 *[(27)] (28) Elderly rental assistance allowed pursuant to ORS 310.635.

37 *[(28)] (29) Your right to receive, or property traceable to:

38 *(a) An award under any crime victim reparation law.

39 *(b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
40 jury suffered by you or an individual of whom you are a dependent.

41 *(c) A payment in compensation of loss of future earnings of you or an individual of whom you
42 are or were a dependent, to the extent reasonably necessary for your support and the support of
43 any of your dependents.

44 [(29)] (30) Amounts paid to you as an earned income tax credit under federal tax law.

45 [(30)] (31) Interest in personal property to the value of \$400, but this cannot be used to increase

1 the amount of any other exemption.

2 [(31)] (32) Equitable interests in property.

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

5 _____
6
7 SPECIAL RULES APPLY FOR DEBTS THAT ARE OWED FOR CHILD SUPPORT AND
8 SPOUSAL SUPPORT. Some property that may not otherwise be taken for payment against the debt
9 may be taken to pay for overdue support. For instance, Social Security benefits, workers' compen-
10 sation benefits, unemployment benefits, veterans' benefits and pensions are normally exempt, but
11 only 75 percent of a lump sum payment of these benefits is exempt if the debt is owed for a support
12 obligation.

13 _____
14
15 **SECTION 6.** ORS 18.845 is amended to read:

16 18.845. A notice of exemptions form must be in substantially the form set forth in this section.
17 Nothing in the notice form described in this section is intended to expand or restrict the law re-
18 lating to exempt property. A determination as to whether property is exempt from execution, at-
19 tachment and garnishment must be made by reference to other law. The form provided in this
20 section may be modified to provide more information or to update the notice based on subsequent
21 changes in exemption laws.

22 _____
23
24 NOTICE OF EXEMPT PROPERTY
25 AND INSTRUCTIONS FOR
26 CHALLENGE TO GARNISHMENT
27

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

31 YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CARE-
32 FULLY.

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

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

37 (a) 75 percent of your take-home wages; or

38 (b) \$170 per workweek.

39 (2) Social Security benefits.

40 (3) Supplemental Security Income (SSI).

41 (4) Public assistance (welfare).

42 (5) Unemployment benefits.

43 (6) Disability benefits (other than SSI benefits).

44 (7) Workers' compensation benefits.

45 (8) Exempt wages, Social Security benefits (other than SSI), welfare, unemployment benefits and

1 disability benefits when placed in a checking or savings account (up to \$7,500).

2 (9) Spousal support, child support or separate maintenance to the extent reasonably necessary
3 for your support or the support of any of your dependents.

4 (10) A homestead (*[home, farm, manufactured dwelling]* **house, mobile home** or houseboat) *[if*
5 *you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000*
6 *for any other homestead with land included) or proceeds from its sale for one year]* **occupied by you,**
7 **or occupied by your spouse, parent or child. The value of the homestead is exempt up to the**
8 **following amounts:**

9 (a) **For a mobile home or houseboat located on land that is not owned by you, \$20,000. If**
10 **you jointly own the mobile home or houseboat with another person who is also liable on the**
11 **debt, \$27,000.**

12 (b) **For a mobile home or houseboat located on land that is owned by you, \$23,000. If you**
13 **jointly own the mobile home or houseboat with another person who is also liable on the debt,**
14 **\$30,000.**

15 (c) **For any other homestead, \$30,000. If you jointly own the homestead with another**
16 **person who is also liable on the debt, \$39,600.**

17 (11) **Proceeds from the sale of a homestead described in item 10, up to the limits de-**
18 **scribed in item 10, if you hold the proceeds for less than one year and intend to use those**
19 **proceeds to procure another homestead.**

20 [(11)] (12) Household goods, furniture, radios, a television set and utensils with a combined value
21 not to exceed \$3,000.

22 *[(12)] (13) An automobile, truck, trailer or other vehicle with a value not to exceed [*\$1,700*]
23 **\$2,150.**

24 *[(13)] (14) Tools, implements, apparatus, team, harness or library that are necessary to carry
25 on your occupation, with a combined value not to exceed \$3,000.

26 *[(14)] (15) Books, pictures and musical instruments with a combined value not to exceed \$600.

27 *[(15)] (16) Wearing apparel, jewelry and other personal items with a combined value not to
28 exceed \$1,800.

29 [(16)] (17) Domestic animals and poultry for family use with a combined value not to exceed
30 \$1,000 and their food for 60 days.

31 [(17)] (18) Provisions [*food*] and fuel for your family for 60 days.

32 [(18)] (19) One rifle or shotgun and one pistol. The combined value of all firearms claimed as
33 exempt may not exceed \$1,000.

34 [(19)] (20) Public or private pensions.

35 [(20)] (21) Veterans' benefits and loans.

36 [(21)] (22) Medical assistance benefits.

37 [(22)] (23) Health insurance proceeds and disability proceeds of life insurance policies.

38 [(23)] (24) Cash surrender value of life insurance policies not payable to your estate.

39 [(24)] (25) Federal annuities.

40 [(25)] (26) Other annuities to \$250 per month (excess over \$250 per month is subject to the same
41 exemption as wages).

42 [(26)] (27) Professionally prescribed health aids for you or any of your dependents.

43 *[(27)] (28) Elderly rental assistance allowed pursuant to ORS 310.635.

44 [(28)] (29) Your right to receive, or property traceable to:

45 (a) An award under any crime victim reparation law.

1 (b) A payment or payments, not exceeding a total of \$10,000, on account of personal bodily in-
2 jury suffered by you or an individual of whom you are a dependent.

3 (c) A payment in compensation of loss of future earnings of you or an individual of whom you
4 are or were a dependent, to the extent reasonably necessary for your support and the support of
5 any of your dependents.

6 [(29)] (30) Amounts paid to you as an earned income tax credit under federal tax law.

7 *[(30)] (31) Interest in personal property to the value of \$400, but this cannot be used to increase
8 the amount of any other exemption.

9 [(31)] (32) Equitable interests in property.

10 [(32)] (33) If the amount shown as owing on the Debt Calculation form exceeds the amount you
11 actually owe to the creditor, the difference between the amount owed and the amount shown on the
12 Debt Calculation form.

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 75 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. If you wish to claim wages or salary as exempt, you must mail
30 or deliver the form within 120 days after you receive this notice. If you wish to claim that any other
31 money or property is exempt, or claim that the property is not subject to garnishment, you must
32 mail or deliver the form within 30 days after you receive this notice. You have the burden of
33 showing that your challenge is made on time, so you should keep records showing when the chal-
34 lenge was mailed or delivered.

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

38
39 You should be prepared to explain your exemption in court. If you have any questions about the
40 garnishment or the debt, you should see an attorney.

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

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

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

45 (3) To assert that the amount specified in the writ of garnishment as being subject to

1 garnishment is greater than the total amount owed.

2
3 YOU MAY NOT USE THE CHALLENGE TO GARNISHMENT FORM TO CHALLENGE THE
4 VALIDITY OF THE DEBT.

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

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

13 _____
14
15 **SECTION 7. The amendments to ORS 18.345 and 18.395 by sections 1 and 2 of this 2005**
16 **Act apply only to execution as defined by ORS 18.005 that is issued on or after the effective**
17 **date of this 2005 Act.**