

A-Engrossed
House Bill 2547

Ordered by the House April 18
Including House Amendments dated April 18

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Revenue)

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.

Allows notice of garnishment to be served by regular mail [*instead of certified mail, return receipt requested.*] **or, under certain circumstances, in electronic form. Requires state agency or county seeking sanctions against noncomplying garnishee to deliver notice personally or by certified mail with return receipt requested.**

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to notices of garnishment; creating new provisions; amending ORS 18.854; and declaring
3 an emergency.

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

5 **SECTION 1.** ORS 18.854 is amended to read:

6 18.854. (1) Any state agency authorized to issue warrants to collect taxes and debts owed to the
7 State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 184.644,
8 267.385, 293.250, 314.430, 316.207, 320.080, 321.570, 323.390, 411.703, 657.396, 657.642, 657.646, 705.175
9 and 825.504, or any county tax collector authorized to issue warrants to collect taxes and debts
10 owed to the county pursuant to ORS 311.625, may garnish property of a debtor in the possession,
11 control or custody of a person other than the debtor by delivering to the person all of the following:

12 (a) A notice of garnishment;

13 (b) A warrant, or a true copy of a warrant;

14 (c) The items specified in ORS 18.650 (1)(b) to (d); and

15 (d) Any garnishee's search fee payable as provided in ORS 18.790.

16 (2) A notice of garnishment may be issued by any person designated by the state agency or by
17 the county tax collector. A warrant need not be recorded in the County Clerk Lien Record as a
18 condition of issuing a notice of garnishment under the provisions of this section. The provisions of
19 ORS 18.800 do not apply to a notice of garnishment.

20 (3) If any of the items described in subsection (1) of this section are not delivered to the
21 garnishee, a notice of garnishment shall not be effective to garnish any property of the debtor, and
22 the garnishee shall not be required to respond to the garnishment and may proceed to deal with any
23 property of the debtor as though the notice of garnishment had not been issued.

24 [(4) *Notwithstanding ORS 18.652, a notice of garnishment and the other items required by sub-*
25 *section (1) of this section may be delivered in person by any employee of the state agency or of the*
26 *county tax collector authorized by the agency or the county to deliver the notice of garnishment, or by*

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 *certified mail, return receipt requested. The employee need not be covered by the errors and omissions*
 2 *insurance required in ORS 18.652.]*

3 **(4)(a) Notwithstanding ORS 18.652, but subject to paragraph (c) of this subsection, a no-**
 4 **notice of garnishment and the other items required by subsection (1) of this section may be**
 5 **delivered in person to the garnishee by any employee of the state agency or of the county**
 6 **tax collector who is authorized by the agency or the county to deliver the notice of**
 7 **garnishment, may be mailed to the garnishee by regular or certified mail or may be sent to**
 8 **the garnishee in electronic form if the garnishee has agreed to delivery in that manner.**

9 **(b) An employee who delivers documents under paragraph (a) of this subsection need not**
 10 **be covered by the errors and omissions insurance required in ORS 18.652.**

11 **(c) A state agency or a county may not seek sanctions against a noncomplying garnishee**
 12 **under ORS 18.775 unless the notice of garnishment and the other items required by sub-**
 13 **section (1) of this section are personally delivered to the garnishee under paragraph (a) of**
 14 **this subsection or mailed to the garnishee by certified mail with return receipt requested.**

15 (5) Notwithstanding any provision of ORS 18.600 to 18.850, a debt calculation form need not be
 16 prepared or delivered for any notice of garnishment.

17 (6) Notwithstanding ORS 18.792, the duty of a garnishee to deliver any property of the debtor
 18 that may be contained in a safe deposit box that is in the garnishee's possession, control or custody
 19 at the time of delivery of the notice of garnishment to the garnishee is conditioned upon the state
 20 agency or the county tax collector first paying to the garnishee, in addition to the search fee pro-
 21 vided for in ORS 18.790, all reasonable costs incurred by the garnishee in gaining entry to the safe
 22 deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector
 23 at least five days before the date the state agency or the county tax collector takes possession of
 24 the property in the safe deposit box. If the state agency or the county tax collector fails to pay such
 25 costs to the garnishee within 20 days after the delivery of the garnishee response, the garnishment
 26 shall not be effective to garnish any property of the debtor that may be contained in the safe deposit
 27 box and the garnishee may proceed to deal with the safe deposit box and its contents as though the
 28 notice of garnishment had not been issued. Nothing in this subsection limits the rights of a state
 29 agency or county tax collector to reach the contents of any safe deposit box in any manner other-
 30 wise provided by law.

31 (7) Except as provided in this section and ORS 18.855 and 18.857, all provisions of ORS 18.600
 32 to 18.850 apply to notices of garnishment. The state agency or county tax collector shall modify the
 33 forms provided in ORS 18.600 to 18.850 as necessary to allow use of those forms for notices of
 34 garnishment. The form of the notice of garnishment must clearly indicate that the document is a
 35 notice of garnishment and must reflect the date of all warrants on which the notice of garnishment
 36 is based.

37 (8) The Attorney General may adopt model forms for notices of garnishment and other docu-
 38 ments issued by state agencies and county tax collectors under this section and ORS 18.855 and
 39 18.857. There is a presumption, as described in ORS 40.120, that any state agency or county tax
 40 collector that uses a model form adopted by the Attorney General under this subsection has com-
 41 plied with the requirements of ORS 18.600 to 18.850, and with the provisions of this section and ORS
 42 18.855 and 18.857, with respect to the form of notices of garnishment.

43 **SECTION 2. The amendments to ORS 18.854 by section 1 of this 2011 Act apply only to**
 44 **notices of garnishment delivered on or after the effective date of this 2011 Act.**

45 **SECTION 3. This 2011 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
2 **on its passage.**

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