

Chapter 29

1993 EDITION

Provisional Process; Attachment and Garnishment

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- 29.010 [Repealed by 1981 c.898 §53]
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 29.030 [1973 c.741 §3; 1979 c.284 §62; repealed by 1981 c.898 §53]
 29.035 [1973 c.741 §4; repealed by 1981 c.898 §53]
 29.040 [1973 c.741 §5; repealed by 1979 c.284 §199]
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 29.050 [1973 c.741 §7; repealed by 1981 c.898 §53]
 29.055 [1973 c.741 §8; repealed by 1981 c.898 §53]
 29.060 [1973 c.741 §9; repealed by 1981 c.898 §53]
 29.065 [1973 c.741 §10; repealed by 1981 c.898 §53]
 29.070 [1973 c.741 §11; repealed by 1981 c.898 §53]
 29.075 [1973 c.741 §12; repealed by 1981 c.898 §53]
 29.080 [Formerly 29.810; repealed by 1981 c.898 §53]
 29.085 [Formerly 29.830; repealed by 1981 c.898 §53]

PROVISIONAL PROCESS

29.087 Concealed property. When a sheriff is required to take possession of personal property under an order of provisional process that is claim and delivery under ORCP 85, and the property or any part thereof is concealed in a building or enclosure, the sheriff shall publicly demand its delivery. If it is not delivered, the sheriff shall cause the building or enclosure to be broken open, and take the property into possession. [Formerly 29.890; 1981 c.898 §33]

- 29.090 [Formerly 29.900; repealed by 1981 c.898 §53]
 29.095 [Formerly 29.910; repealed by 1981 c.898 §53]
 29.110 [Repealed by 1981 c.898 §53]

ATTACHMENT

29.115 Notice of attachment to defendant; content; method of delivery; plaintiff to provide address; sheriff's duty if address not known. (1) Following attachment by the sheriff pursuant to ORCP 84, the sheriff shall promptly mail or deliver the following to the defendant who is not a corporation at the last-known address of the defendant:

- (a) A copy of the writ;
- (b) A copy of the claim of lien filed pursuant to ORCP 84 C, if any; and
- (c) The notice of exemptions and claim form described in ORS 29.225.

(2) The sheriff may meet the requirements of subsection (1) of this section by mailing the documents to the last-known address of the defendant as provided by the plaintiff. The sheriff may withhold execution of the writ until the plaintiff either provides such address or a statement that the plaintiff has no knowledge of the defendant's address. The sheriff shall have no duty under this section if the plaintiff provides a statement that the plaintiff has no knowledge of the defendant's address. [Formerly 29.178]

- 29.120 [Repealed by 1981 c.898 §53]

GARNISHMENT

29.125 Definitions for ORS 29.125 to 29.375 and 29.401 to 29.415. As used in ORS 29.125 to 29.375 and 29.401 to 29.415:

(1) "Defendant" means a person whose property is being garnished by a plaintiff and includes a judgment debtor after entry of judgment.

(2) "Garnishee" means a person other than a plaintiff or a defendant who is in possession of property of a defendant and who has been garnished in accordance with the provisions of ORS 29.125 to 29.375 and 29.401 to 29.415.

(3) "Judgment" includes the support arrearages as shown on the support records of the Department of Human Resources pursuant to ORS 25.020 and 25.330, even though such records may not constitute a full record of the support arrearages owed.

(4) "Person" includes individuals, partnerships and corporations.

(5) "Plaintiff" means a person who is garnishing property of a defendant and includes a judgment creditor after entry of judgment.

(6) "Sheriff" includes constables and their deputies.

(7) "Stock" includes rights or shares in an association or corporation with interest and profits thereon.

(8) "Writ of garnishment" includes writs issued under ORS 29.125 to 29.375 and 29.401 to 29.415. [1981 c.883 §2; 1989 c.726 §5; 1989 c.876 §8]

- 29.130 [Repealed by 1981 c.898 §53]

29.135 Garnishment described.

Garnishment is the procedure by which a plaintiff on whose behalf a writ of garnishment has been issued against a defendant reaches tangible or intangible personal property of the defendant in the possession, control or custody of or debts or other monetary obligations owing by a third person. [1981 c.883 §3]

29.137 Persons by and for whom writs are issued. This section establishes by whom and for whom writs of garnishment are issued. Such writs may be issued only by and for the following described persons:

(1) The clerk of the court shall issue one or more writs of garnishment upon proper application and payment of the appropriate fee. Issuance under this subsection shall be by the clerk of the court for the county in which a judgment was originally entered or, if a judgment is from another jurisdiction and is registered in this state, the clerk of the court for the county in which the judg-

ment was first filed in this state. The provisions of ORS 29.138 apply to writs issued by a clerk under this subsection. Clerks will issue writs only for the following persons under this subsection:

(a) A person who complies with the requirements of ORCP 82 A(3), (5) and (6), 82 B to G, 83 and 84.

(b) A person on whose behalf a judgment requiring the payment of money has been entered in the register of actions.

(2) An attorney who is an active member of the Oregon State Bar may issue one or more writs of garnishment. The provisions of ORS 29.139 apply to writs issued by attorneys. Attorneys will issue writs under this subsection only for:

(a) A person on whose behalf a judgment requiring the payment of money has been entered in the register of actions of a court of this state; or

(b) An agency that has recorded a civil penalty order in the County Clerk Lien Record pursuant to ORS 183.090 (6).

(3) Writs of garnishments for an agency under subsection (2)(b) of this section shall be issued in the manner provided by ORS 29.357. [1987 c 873 §2; 1991 c 734 §2a]

29.138 Writs issued by court clerks; procedure; payments; release of property. This section establishes provisions that apply to writs of garnishment issued by court clerks under ORS 29.137. The following apply as described:

(1) All the following apply to the issuance of the writ:

(a) The form of the writ shall be substantially as provided in ORS 29.145. Notation on the writ of additional information for purposes of identifying the defendant or the property garnished shall not affect the validity or scope of the writ. The clerk shall refuse to issue any of the following:

(A) A writ that does not substantially comply with ORS 29.145 and with this section.

(B) Any writ that is incomplete or contains improper instructions. Grounds for the clerk's refusal to issue a writ of garnishment under this subparagraph include, but are not limited to, any of the following:

(i) The clerk's inability to verify the existence of the action or judgment purported to be the basis for the writ.

(ii) The clerk's determination that such judgment is satisfied.

(b) The clerk is not responsible for verifying the amounts set forth on a writ issued by the clerk and is not liable for errors in the writ made by the plaintiff. The plaintiff

shall be liable for any errors in the writ made by the plaintiff or for failure to complete the writ.

(c) Every writ issued by the clerk must be signed by the plaintiff or the plaintiff's agent or attorney. The signature constitutes a certificate by the person under ORCP 17 and is subject to the sanctions relating to such certification.

(d) The clerk shall in no way fill in or complete the writ other than to issue the writ or to certify copies of the writ. The plaintiff or the plaintiff's agent or attorney must complete the writ form and supply the necessary copies.

(e) Every writ issued by the clerk must include or have attached a notice informing the defendant that the clerk has not verified the figures in the writ.

(f) Upon receipt of a writ that complies with the requirements of this section, the clerk shall promptly issue the writ.

(g) If the writ does not indicate that the writ is issued to enforce a judgment for the payment of money, the clerk shall attach to the writ and all copies of the writ a notice directing the garnishee as follows:

(A) If the garnishee owes a debt or other obligation to the debtor that is then due, the garnishee must deliver its certificate, together with any funds garnished by the writ, to the court.

(B) If the garnishee owes a debt or other obligation to the debtor that is not then due but will become due within 45 days after the garnishee receives the writ, the garnishee must deliver its certificate to the court, and, unless otherwise directed by the court, the garnishee must pay any funds garnished to the court when the debt or other obligation becomes due.

(C) If the garnishee owes a debt or other obligation to the debtor which is not then due and which will not become due within 45 days or holds other personal property of the debtor, the garnishee must deliver its certificate to the sheriff and to the court and must comply with any further directions the garnishee receives from the court or the sheriff.

(2) A writ of garnishment shall be valid for 60 days after the date of issuance by the clerk.

(3) All the following apply to payments made under the writ:

(a) Unless otherwise directed by the clerk, a garnishee shall deliver property under the writ directly to the plaintiff when provided under ORS 29.235, subject to the provisions of ORS 29.142 relating to claim of

exemption and the provisions in ORS 29.255 relating to garnishee duties.

(b) When the clerk of the court receives a claim of exemption under ORS 29.142, the clerk thereafter shall reject any item received as payment that is not payable to the court and shall return it to the garnishee with instructions to reissue the payment as payable to the court. If the clerk receives a claim of exemption under ORS 29.142, the clerk shall retain any payment the clerk receives from the garnishee or the plaintiff until the court determines the claim. The clerk shall then promptly disburse the funds as ordered by the court.

(c) If the garnishee sends payment to the court at any time other than when the clerk receives a claim of exemption, the clerk shall forward all payments payable to the plaintiff or to the plaintiff's attorney. When the defendant files a claim of exemption under ORS 29.142, the clerk shall comply with paragraph (b) of this subsection. If a payment to be passed through under this paragraph is payable to the court, the clerk may:

(A) Deposit and hold the payment until the payment is accepted as final where the deposit is made under ORS 74.2130 or as otherwise allowed under law; and

(B) Then forward the payment to the plaintiff or, if the plaintiff has an attorney known to the clerk, to the plaintiff's attorney.

(d) The clerk shall not be liable for interest on funds sent to the court in error if the clerk passes the funds through in a timely manner.

(e) The clerk shall not be liable for accepting any amount of payment. This paragraph applies even if the payment:

(A) Exceeds the amount required to satisfy the judgment or debts owed to the plaintiff;

(B) Exceeds amounts listed in the writ; or

(C) Is sent to the clerk in error.

(f) Within 10 days of receipt, a plaintiff or the plaintiff's attorney shall return to the defendant any payment received that exceeds the amount listed in the writ of garnishment, less any additional payments not shown in the writ. If payment was made by check or other draft, the plaintiff or plaintiff's attorney is not required to return the payment until 10 days after the payment is accepted as final where the payment is deposited under ORS 74.2130 or as otherwise allowed under law.

(g) The clerk of the court may return to the garnishee any payment received from the

garnishee if the garnishee fails to do one or the other of the following:

(A) Include the certificate of garnishee.

(B) Explain that the payment is a voluntary payment on behalf of the defendant under ORS 18.410 or is a payment under another applicable statute, court order or legal process that requires or allows the garnishee to pay funds into the court.

(h) A payment by a garnishee shall be credited against the judgment or debt owed by the defendant as follows:

(A) If the garnishee disburses payment to the plaintiff or the plaintiff's attorney, on the date the plaintiff or plaintiff's attorney receives the payment.

(B) If the garnishee disburses payment to the court, on the date the clerk disburses payment to the plaintiff or the plaintiff's attorney, unless the court otherwise orders. This subparagraph applies even when the garnishee makes payment to the court in error or when the clerk holds funds pending a claim of exemption.

(i) Except as provided in paragraph (f) of this subsection, the plaintiff shall hold any payment received for a period of 10 days after receipt. The payments shall be held in this state, shall be clearly identifiable and shall be held separate and apart from any account used for operating a business or used to pay personal or business expenses; but they may be commingled with other garnished funds.

(4) Any property subject to the writ may be released as provided under ORS 29.365. [1987 c.873 §3; 1991 c.104 §1]

29.139 Writs issued by attorneys; procedure; payments; release of property. This section establishes provisions that apply to writs of garnishment issued by an attorney under ORS 29.137. The following apply as described:

(1) All the following apply to the issuance of the writ:

(a) The form of the writ shall be substantially as provided in ORS 29.147. Notation on the writ of additional information for purposes of identifying the defendant or the property garnished shall not affect the validity or scope of the writ.

(b) Every writ issued by an attorney must be signed by the attorney. The signature constitutes a certificate by the attorney under ORCP 17 and is subject to the sanctions relating to such certification.

(c) The plaintiff or the plaintiff's agent or attorney must complete the writ form and supply the necessary copies.

(d) Every writ issued by an attorney must include or have attached a notice informing the defendant that the court has not verified the figures in the writ.

(2) A writ of garnishment shall be valid for 60 days after the date of issuance by the attorney.

(3) All the following apply to payments made under the writ:

(a) A garnishee shall deliver property under the writ directly to the plaintiff when provided under ORS 29.235, subject to the provisions of ORS 29.142 relating to claim of exemption and the provisions in ORS 29.255 relating to garnishee duties.

(b) When the clerk of the court receives a claim of exemption under ORS 29.142, the clerk thereafter shall reject any item received as payment that is not payable to the court and shall return it to the garnishee with instructions to reissue the payment as payable to the court. If the clerk receives a claim of exemption under ORS 29.142, the clerk shall retain any payment the clerk receives from the garnishee or the plaintiff until the court determines the claim. The clerk shall then promptly disburse the funds as ordered by the court.

(c) If the garnishee sends payment to the court at any time other than when the clerk receives a claim of exemption, the clerk shall forward all payments payable to the plaintiff or to the plaintiff's attorney. When the defendant files a claim of exemption under ORS 29.142, the clerk shall comply with paragraph (b) of this subsection. If a payment to be passed through under this paragraph is payable to the court, the clerk may:

(A) Deposit and hold the payment until the payment is accepted as final where the deposit is made under ORS 74.2130 or as otherwise allowed under law; and

(B) Then forward the payment to the plaintiff or, if the plaintiff has an attorney known to the clerk, to the plaintiff's attorney.

(d) The clerk shall not be liable for interest on funds sent to the court in error if the clerk passes the funds through in a timely manner.

(e) The clerk shall not be liable for accepting any amount of payment. This paragraph applies even if the payment:

(A) Exceeds the amount required to satisfy the judgment owed to the plaintiff;

(B) Exceeds amounts listed in the writ;

or

(C) Is sent to the clerk in error.

(f) Within 10 days of receipt, a plaintiff or the plaintiff's attorney shall return to the

defendant any payment received that exceeds the amount listed in the writ of garnishment, less any additional payments not shown in the writ. If payment was made by check or other draft, the plaintiff or plaintiff's attorney is not required to return the payment until 10 days after the payment is accepted as final where the payment is deposited under ORS 74.2130 or as otherwise allowed under law.

(g) The clerk of the court may return to the garnishee any payment received from the garnishee if the garnishee fails to do one or the other of the following:

(A) Include the certificate of garnishee.

(B) Explain that the payment is a voluntary payment on behalf of the defendant under ORS 18.410 or is a payment under another applicable statute, court order or legal process that requires or allows the garnishee to pay funds into the court.

(h) A payment by a garnishee shall be credited against the judgment owed by the defendant as follows:

(A) If the garnishee disburses payment to the plaintiff or the plaintiff's attorney, on the date the plaintiff or the plaintiff's attorney receives the payment.

(B) If the garnishee disburses payment to the court, on the date the clerk disburses payment to the plaintiff or the plaintiff's attorney, unless the court otherwise orders. This subparagraph applies even when the garnishee makes payment to the court in error or when the clerk holds funds pending a claim of exemption.

(i) Except as provided in paragraph (f) of this subsection, the plaintiff shall hold any payment received for a period of 10 days after receipt. The payments shall be held in this state, shall be clearly identifiable and shall be held separate and apart from any account used for operating a business or used to pay personal or business expenses; but they may be commingled with other garnished funds.

(4) Any property subject to the writ may be released as provided under ORS 29.365. [1987 c.873 §4; 1991 c.104 §2; 1993 c.18 §7]

29.140 [Repealed by 1981 c.898 §53]

29.142 Claims of exemption; procedure. When a defendant receives a copy of a writ of garnishment under ORS 29.215, the defendant may claim such exemptions from garnishment as are permitted by law. This section establishes provisions and procedures applicable to a defendant's claim of exemption. The following apply as described:

(1) The defendant may claim an exemption by completing the claim of exemption form described in ORS 29.225 or a

substantially similar form and by delivering, in person or by first-class mail, the completed original form to the clerk of the court where the judgment was first obtained or, if a foreign judgment registered in this state, where the judgment was originally filed within 90 days after the writ of garnishment is delivered to the defendant.

(2) The clerk, upon receipt of a claim of exemption under subsection (1) of this section, shall retain payments as provided under ORS 29.138 or 29.139 and, without unreasonable delay, shall provide written notice of the claim of exemption as provided under this subsection. Upon receipt, the notice creates the duties under subsection (4) of this section. The notice may include the notice of hearing under subsection (5) of this section. The notice shall apprise garnishees, plaintiffs and plaintiffs' attorneys of consequences under this section of failure to comply with requirements under subsection (4) of this section. The clerk shall provide notice of claim of exemption as follows:

(a) To the plaintiff or the plaintiff's attorney.

(b) To the garnishee named in the writ. The clerk is not required to provide notice to the garnishee if the clerk knows that the garnishee has already forwarded any money or property subject to the garnishment.

(c) To the sheriff of the county where the writ was delivered to the garnishee. The clerk is not required to provide notice to the sheriff if the clerk knows that the garnishee was not required to notify the sheriff under ORS 29.235 or that the sheriff has already forwarded any property or proceeds subject to the garnishment.

(3) All the following apply to a defendant regarding a claim of exemption under this section:

(a) Nothing in the notice of exemption form under ORS 29.215 and 29.225 is intended either to expand or restrict the law relating to exempt property. Whether property is exempt from execution, attachment and garnishment shall be determined by reference to this section and other law.

(b) The court may impose sanctions on a defendant who files a claim of exemption in bad faith. The sanctions a court may impose under this paragraph are a fine of not more than \$100 and responsibility for attorney fees under ORS 20.105. A court's imposition of sanctions under this paragraph does not limit any remedy otherwise available to the plaintiff.

(c) The defendant has the burden to prove timely delivery of the claim of exemption.

(d) In addition to any other claims of exemption, the defendant may claim an exemption where the writ of garnishment claims an amount greater than the total amount the defendant asserts is due the creditor.

(e) In addition to any other claims of exemption, the defendant may claim as exempt any property that may not be taken by garnishment as described under ORS 29.205.

(4) The following are duties imposed upon the described parties who have received notice of claim of exemption from the clerk under this section:

(a) The plaintiff or plaintiff's attorney shall send any garnished debt or obligation payable in money to the court by cash or by check or other draft made payable to the court. If the funds have not reached the court by the time of the exemption hearing, the clerk shall so notify the judge presiding at the hearing. If the court determines that any of the garnished funds should be disbursed to the defendant and the funds have not reached the court by the time of that determination, the court shall issue an order that the person obligated to return the funds under this paragraph appear and show cause why the person should not be held in contempt. In addition to contempt proceedings, the court may require the person to pay attorney fees under ORS 20.105. A court's imposition of sanctions under this paragraph does not limit any remedy otherwise available to the defendant. This paragraph does not apply in any circumstances where:

(A) The debt or obligation has not been forwarded to the plaintiff or plaintiff's attorney; or

(B) A garnishee is not required or allowed, by law, to disburse the debt or obligation.

(b) A garnishee who holds and has not yet forwarded:

(A) A debt or obligation payable in money shall send or deliver the garnished debt or obligation to the court by cash or by check or other draft made payable to the court. The garnishee shall make the delivery to the court within the time the garnishee would have otherwise been required to deliver or send the debt or obligation to the plaintiff. Any payments to be delivered from the garnishee to the clerk of the court under this paragraph shall be made payable to the court and not payable to the plaintiff. A garnishee who fails to comply with this paragraph is subject to ORS 29.275 and 29.285.

(B) Other property or a debt or obligation in existence but not yet due and which will not become due within 45 days shall comply

with the direction of the sheriff under ORS 29.237 and 29.255.

(c) A sheriff who has received notice from a garnishee under ORS 29.235 or who holds property under the writ shall hold the property as provided under ORS 29.265.

(5) A defendant's claim of exemption is subject to the procedures under ORS 23.168 for a claim of exemption from execution. The clerk of the court shall immediately set a hearing date and send notice of the hearing to the parties. Hearings on a claim of exemption may be held by telecommunication.

(6) If a claim of exemption is allowed by the court, the clerk shall mail the amount of money or proceeds determined to be exempt to the defendant within 10 judicial days after the court's order allowing the claim of exemption.

(7) Any money or proceeds determined not to be exempt after a hearing shall be mailed to the plaintiff or plaintiff's attorney within 10 judicial days after the court's order denying the exemption as to those funds. [1987 c.873 §6; 1989 c.412 §1; 1993 c.439 §7]

Note: Section 9, chapter 439, Oregon Laws 1993, provides:

Sec. 9. The amendments to ORS 23.160, 23.164, 23.200, 23.240, 23.250, 23.280, 29.142 and 29.225 by sections 1 to 8 of this Act apply only to execution issued on or after the effective date of this Act [November 4, 1993]. [1993, c.439 §9]

29.145 Form for writ issued by court clerk. This section establishes a form for a writ of garnishment issued by the clerk of the court as described in ORS 29.137 and 29.138. A writ of garnishment issued by the clerk of the court shall be in substantially the following form:

(This form is for garnishments issued under ORS 29.137 and 29.138)

IN THE _____ COURT
OF THE STATE OF OREGON
FOR THE COUNTY OF _____

Plaintiff,)
) WRIT OF
) GARNISHMENT
vs.) ISSUED BY THE
) COURT CLERK
) Case No. _____
Defendant.)

IN THE NAME OF THE STATE OF OREGON, TO: _____

You are now a Garnishee.
AS A GARNISHEE, YOU NEED TO KNOW THE FOLLOWING (the following information is to be filled in by the Creditor):

On the ____ day of _____, 19____,
(cross out one) plaintiff/defendant

_____, named above and called "Creditor," has (check one):

_____ filed an action
_____ obtained a judgment (a court order for the payment of money) against the (cross one out) plaintiff/defendant

_____, named above and called "Debtor." The Debtor's Social Security Number or Employer Identification Number is _____ (insert if known). The following amount is necessary to satisfy the Creditor's claim or judgment:

- +Claim or Judgment Debt \$_____
+Prejudgment Interest \$_____
+Attorney Fees \$_____
+Cost Bill \$_____
+Post-Judgment Interest \$_____
+Delivery Fee for this Writ \$_____
+Issuance Fee for this Writ \$_____
+Sheriff's Fees other than Delivery Fees \$_____

+Other (Explain. Attach additional sheets if necessary. NOTE: INSERTING ITEMS AND AMOUNTS NOT LAWFULLY SUBJECT TO COLLECTION BY GARNISHMENT MAY RESULT IN LIABILITY FOR WRONGFUL EXECUTION.)

_____ \$_____
_____ \$_____
_____ \$_____
_____ \$_____

Total other from additional sheet (if used) \$_____
+Past Writ Issuance Fees \$_____
+Past Delivery Fees \$_____
+Transcript and Filing Fees for other counties \$_____
=Subtotal \$_____
LESS Payments Made \$(_____)
=TOTAL Amount Required to Satisfy in Full this Claim or Judgment \$_____

THE CLERK OF THE COURT HAS NOT CALCULATED ANY AMOUNTS ON THE WRIT AND IS NOT LIABLE FOR ERRORS MADE IN THE WRIT BY THE CREDITOR.

Witness the hand and seal of the court on this ____ day of _____, 19____.

CLERK OF THE COURT
By _____
State of Oregon)
) ss.
County of _____)

I certify that the foregoing is a true and correct copy of the original Writ of Garnishment in the above-entitled case.
CLERK OF THE COURT

By _____

I certify that I have read the Writ of Garnishment; and to the best of my knowledge, information and belief, there is good ground to support it, and all sums included above are lawfully subject to collection by this garnishment.

Creditor/Creditor's Attorney (or Agent)

Address

Telephone Number

Oregon State Bar Number
(if applicable)

* * *

GARNISHEE'S DUTIES

YOU MUST ANSWER THIS WRIT BY COMPLETING AND FILING A CERTIFICATE OF GARNISHEE WHETHER OR NOT YOU HOLD ANY OF THE DEBTOR'S PROPERTY OR OWE ANYTHING TO THE DEBTOR.

IF YOU FAIL TO ANSWER THIS WRIT, OR IF YOU ANSWER IT UNTRUTHFULLY, OR IF YOU FAIL TO DELIVER THE PROPERTY WHEN REQUIRED TO DO SO, YOU MAY BE SUBJECT TO COURT PROCEEDINGS UNDER ORS 29.285 AND MAY BE HELD LIABLE TO THE CREDITOR FOR THE LESSER OF:

(A) THE TOTAL AMOUNT CLAIMED IN THIS WRIT, OR

(B) THE AMOUNT YOU OWE THE DEBTOR OR THE VALUE OF PROPERTY YOU HOLD.

NOTE: YOU MAY NOT LAWFULLY DISCHARGE THE DEBTOR FROM EMPLOYMENT AS A RESULT OF THIS GARNISHMENT.

As a Garnishee, you must take the following steps:

STEP 1. COMPLETE THE CERTIFICATE AND SCHEDULE.

Except where you have not received the original writ or a true copy thereof, four additional copies of the writ and, if you are a financial institution, a garnishee's search fee of \$5, within five days of receiving the writ, you must fill out and file the forms below called "Certificate of Garnishee" and, if required (see schedule form), the "Earnings Exemption Computation Schedule."

In filling out the form, you must describe any garnished property or debts you know you have in your possession. This writ garnishes only personal property of the Debtor you hold or debts you owe to the Debtor as of the date you received this writ, including debts that existed but were not yet

due when you received this writ. You file these forms by following Step 2 below.

If you have questions, you should contact an attorney. The clerk of court cannot give you legal advice.

If, when the writ was delivered to you, you did not receive the original writ or a true copy thereof, four additional copies of the writ and, if you are a financial institution, a garnishee's search fee of \$5, the garnishment is not effective to garnish any property, you are not required to respond by filing the garnishee's certificate and you may deal with any property of the Debtor as though the garnishment had not been issued.

If the writ does not comply with Oregon law or if you cannot tell from the writ whether you hold any property or owe any debt to the Debtor, the writ does not garnish anything, but you must fill out the certificate anyway and follow Step 2. Keep a copy for your records.

If the writ does comply with Oregon law and you can tell that you may hold property or owe a debt to the Debtor but you are not sure what or how much, you must fill out the certificate anyway and explain why. You must then follow Step 2. When you find out whether or what you do owe the Debtor, you should amend the certificate, even if you find out you do not owe the Debtor anything. Follow Step 2 again and file the amended certificate.

If you discover before you send your certificate under Step 2 that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330), you must describe in your certificate any garnished property or debts that you know that you have in your possession, and note on the certificate that a bankruptcy petition has been filed.

After filing the certificate under Step 2, go on to Step 3 if you owe anything to the Debtor or hold property that belongs to the Debtor.

STEP 2. FILE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving the writ, you must send all of the following (information to be filled in by Creditor):

The original certificate and schedule form to the clerk of (cross one out) district/circuit court of _____ County at:

Street address: _____
City _____ County _____
State _____ Zip code _____

A copy of the certificate and schedule form to the Debtor at (last-known address):

Name _____
 Street address _____
 City _____ State _____
 Zip Code _____
 Telephone number (if known) _____

A copy of the certificate and schedule form to the Creditor at:

Name _____
 Street address _____
 City _____ State _____
 Zip Code _____
 Telephone number _____

A copy of the certificate to the Sheriff of the county where this writ was delivered to you. You will need to look up the address. You are required to send a copy to the Sheriff only if you hold personal property of the Debtor or owe a debt or other obligation payable to the Debtor other than a debt or other obligation payable that is due now or will become due within 45 days.

STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

Unless you have discovered that a bankruptcy petition has been filed by or on behalf of the Debtor and your certificate contains a statement to that effect, and if, after exercising any applicable right of setoff, you owe anything to the Debtor or hold property that belongs to the Debtor, you must do (a) or (b) below, or both, after you file the certificate under Step 2, depending on what you owe or hold:

(a) **MONEY OR OTHER OBLIGATION DUE WITHIN 45 DAYS.** If you owe or hold a debt or other obligation payable in money that is due now or will become due in 45 days, do the following:

Unless you receive a notice of claim of exemption or other direction from the court (a document or other notice from the clerk of the court telling you what to do with the money or informing you that the Debtor is claiming that all or some of the money cannot be garnished), when you send your certificate or when the debt or other obligation becomes due, whichever is later, make your check or other draft payable to the Creditor and send the payment directly to the Creditor at the address shown in Step 2.

In making payments under this writ, you may first deduct any garnishment processing fee which you levy as permitted in ORS 29.377, and you need to prorate any wages or periodic payments, so that you pay only the amount you owe the Debtor on the date you receive this writ.

If you receive a notice of claim of exemption from the court or direction from the court to deliver the money to the court and have not yet forwarded the money, send or deliver the payment directly to the clerk of

the court. You must send the payment promptly with the Certificate of Garnishee if it is now due; otherwise, send it when it becomes due and send the Certificate of Garnishee as required under Step 2. If you make payment by check or other draft, make it payable to the court. Because you may be liable for money that does not reach the court, it is better not to send cash by mail.

AND/OR

(b) **DEBTS DUE AFTER 45 DAYS AND OTHER PROPERTY.** If you filed your certificate with the Sheriff under Step 2, do the following even if you receive a notice of claim of exemption from the court:

Hold subject to this garnishment the debt or property now in your possession, control or custody until you receive written notice from the Sheriff. The Sheriff's notice should tell you what to do with the debt or property. If the debt or property is not convenient for you to deliver to the Sheriff and you want the Sheriff to come get the property, you must explain this fact on the certificate.

If you have followed all of the steps in this writ and you receive no notice from the Sheriff within 30 days after this writ was delivered to you, you may treat this garnishment as being of no further force or effect.

As long as this writ is in effect, you may be liable to the Creditor if you pay any debt or turn over any property to the Debtor, except the exempt portion of any wages you owe to the Debtor unless you are otherwise directed by the court or unless the claim or judgment for which this writ of garnishment was given is satisfied in full.

**EARNINGS EXEMPTION
 COMPUTATION SCHEDULE**

The Garnishee must complete the following form and fill in the correct amounts only if the Garnishee is an employer of the Debtor under ORS 23.175.

1. Debtor's gross weekly "earnings" \$ _____
2. Amounts required to be withheld by law
 (Federal and state withholding, social security, etc.) \$ _____
3. Debtor's "disposable earnings" for week -
 Subtract line 2 from line 1 \$ _____
4. Minimum Exemption
 (a) For wages payable before June 30, 1992 \$150
 (b) For wages payable before June 30, 1993 \$160
 (c) For wages payable on or after July 1, 1993. \$170

- 5. Maximum Exemption -
Enter 75 percent of line 3 .. \$ _____
- 6. Earnings exempt
from garnishment -
Line 4 or 5,
whichever is greater .. \$ _____
- 7. Nonexempt earnings -
Subtract line 6
from line 3 \$ _____
- 8. Amounts withheld pursuant to
a support order under
support withholding
process available under
prior law or
chapter 798,
Oregon Laws 1993 \$ _____
- 9. Earnings subject
to garnishment -
Subtract line 8
from line 7 \$ _____

the writ whether I hold any property of the Debtor. (Explain)

— I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor.

— The writ does comply with Oregon law and I am able to determine that I may owe money to or hold property of the Debtor, but I am not sure what or how much it might be. I will file an amended certificate when I find out. (Explain)

(Case caption to be completed by Creditor)

IN THE _____ COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

Plaintiff,)
) CERTIFICATE OF
) GARNISHEE
) Case No. _____
 vs.)

Defendant.)
 TO: The Clerk of Court, Debtor,
 Creditor/Creditor's Attorney and (if applicable)
 Sheriff

(Following to be completed by Garnishee)
 State of _____
 County of _____

I hereby certify that at the time of delivery to me of the foregoing Writ of Garnishment on the ____ day of _____, 19____, I had in my possession, control or custody only the following property, money, debts, rights, dues or credits due or to become due, belonging or owing to the Debtor named in said Writ of Garnishment (include due date if not yet due):

I have placed a check in front of all the following statements that apply (more than one may apply):

- I do not owe money to or hold personal property of the Debtor.
- The Writ of Garnishment does not comply on its face with Oregon garnishment law or I am unable to determine from the information in

— I owe a debt or other obligation to the Debtor, which is not now due but will become due within 45 days. I will forward the money when the debt or other obligation becomes due.

— I am holding personal property of or owe a debt or other obligation to the Debtor other than a debt or obligation due within 45 days. I am sending this certificate to the Sheriff and if I receive instructions from the Sheriff within 30 days I will follow those instructions even if I receive notice of claim of exemption.

— I owe a debt or other obligation to the Debtor which is now due and I am forwarding the money owed or enough of it to satisfy the garnishment to the Creditor.

— (For FINANCIAL INSTITUTIONS only): I owe a debt or other obligation to the Debtor, and the Debtor owes a debt or other obligation to me, which I certify was due at the time I received the Writ of Garnishment. Pursuant to ORS 29.205 (4), I have offset the sum of \$_____ and applied it to the debt owed to me, and I am forwarding the balance of the money I owe the Debtor, or enough of it to satisfy the garnishment, to the Creditor.

— I am holding personal property other than money, but it is inconvenient to deliver the property to the Sheriff. I

above are lawfully subject to collection by this garnishment.

Creditor's Attorney

Address

Telephone Number

Oregon State Bar Number

Date of Issuance

* * *

GARNISHEE'S DUTIES

YOU MUST ANSWER THIS WRIT BY COMPLETING AND FILING A CERTIFICATE OF GARNISHEE WHETHER OR NOT YOU HOLD ANY OF THE DEBTOR'S PROPERTY OR OWE ANYTHING TO THE DEBTOR.

IF YOU FAIL TO ANSWER THIS WRIT, OR IF YOU ANSWER IT UNTRUTHFULLY, OR IF YOU FAIL TO DELIVER THE PROPERTY WHEN REQUIRED TO DO SO, YOU MAY BE SUBJECT TO COURT PROCEEDINGS UNDER ORS 29.285 AND MAY BE HELD LIABLE TO THE CREDITOR FOR THE LESSER OF:

(A) THE TOTAL AMOUNT CLAIMED IN THIS WRIT, OR

(B) THE AMOUNT YOU OWE THE DEBTOR OR THE VALUE OF THE PROPERTY YOU HOLD.

NOTE: YOU MAY NOT LAWFULLY DISCHARGE THE DEBTOR FROM EMPLOYMENT AS A RESULT OF THIS GARNISHMENT.

As Garnishee, you must take the following steps:

STEP 1. COMPLETE THE CERTIFICATE AND SCHEDULE.

Except where you have not received the original writ or a true copy thereof, four additional copies of the writ and, if you are a financial institution, a garnishee's search fee of \$5, within five days of receiving the writ, you must fill out and file the forms below called "Certificate of Garnishee" and, if required (see schedule form), the "Earnings Exemption Computation Schedule."

In filling out the form, you must describe any garnished property or debts you know you have in your possession. This writ garnishes only personal property of the Debtor you hold or debts you owe to the Debtor as of the date you received this writ, including debts that existed but were not yet due when you received this writ. You file these forms by following Step 2 below.

If you have questions, you should contact an attorney. The clerk of court cannot give you legal advice.

If, when the writ was delivered to you, you did not receive the original writ or a true copy thereof, four additional copies of the writ and, if you are a financial institution, a garnishee's search fee of \$5, the garnishment is not effective to garnish any property, you are not required to respond by filing the garnishee's certificate and you may deal with any property of the Debtor as though the garnishment had not been issued.

If the writ does not comply with Oregon law or if you cannot tell from the writ whether you hold any property or owe any debt to the Debtor, the writ does not garnish anything, but you must fill out the certificate anyway and follow Step 2. Keep a copy for your records.

If you discover before you send your certificate under Step 2 that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330), you must describe in your certificate any garnished property or debts that you know that you have in your possession, and note on the certificate that a bankruptcy petition has been filed.

If the writ does comply with Oregon law and you can tell that you may hold property of or owe a debt to the Debtor but you are not sure what or how much, you must fill out the certificate anyway and explain why. You must then follow Step 2. When you find out whether or what you do owe the Debtor, you should amend the certificate, even if you find out you do not owe the Debtor anything. Follow Step 2 again and file the amended certificate.

After filing the certificate under Step 2, go on to Step 3 if you owe anything to the Debtor or hold property that belongs to the Debtor.

STEP 2. FILE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving this writ, you must send all of the following (information to be filled in by Creditor):

A copy of the certificate and schedule form to the Creditor at:

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____

The original certificate and schedule form to the clerk of (cross one out) district/circuit court of _____ County at:

Street address _____
City _____ County _____
State _____ Zip Code _____

A copy of the certificate and schedule form to the Debtor at (last known address):

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number (if known) _____

A copy of the certificate to the Sheriff of the county where this writ was delivered to you. You will need to look up this address. You are required to send a copy to the Sheriff only if you hold personal property of the Debtor or owe a debt or other obligation payable to the Debtor other than a debt or other obligation payable in money that is due now or will become due within 45 days.

However, if you, after exercising any applicable right of setoff, have no property of the Debtor and owe no debt to the Debtor, you are only required to send your certificate to the Creditor at the address shown above. You do not have to send anything to the clerk or the Debtor.

STEP 3. DELIVER THE FUNDS OR OTHER PROPERTY.

If, after exercising any applicable right of setoff, you owe anything to the Debtor or hold property that belongs to the Debtor, you must do (a) or (b) below, or both, after you file the certificate under Step 2, depending on what you owe or hold:

(a) MONEY OR OTHER OBLIGATION DUE WITHIN 45 DAYS. Unless you have discovered that a bankruptcy petition has been filed by or on behalf of the Debtor and your certificate contains a statement to that effect, and if, after exercising any applicable right of setoff, you owe or hold a debt or other obligation payable in money that is due now or will become due in 45 days, do the following:

Unless you receive a notice of claim of exemption or other direction from the court (a document or other notice from the clerk of the court telling you what to do with the money or informing you that the Debtor is claiming that all or some of the money cannot be garnished), when you send your certificate or when the debt or other obligation becomes due, whichever is later, make your check or other draft payable to the Creditor and send the payment directly to the Creditor at the address shown in Step 2.

In making payments under this writ, you may first deduct any garnishment processing fee which you levy as permitted in ORS 29.377, and you need to prorate any wages or periodic payments so that you pay only the amount you owe the Debtor on the date you receive this writ.

If you receive a notice of claim of exemption from the court or direction from the

court to deliver the money to the court and have not yet forwarded the money, send or deliver the payment directly to the clerk of the court. You must send the payment promptly with the Certificate of Garnishee if it is now due; otherwise, send it when it becomes due and send the Certificate of Garnishee as required under Step 2. If you make payment by check or other draft, make it payable to the court. Because you may be liable for money that does not reach the court, it is better not to send cash by mail.

AND/OR

(b) DEBTS DUE AFTER 45 DAYS AND OTHER PROPERTY. If you filed your certificate with the Sheriff under Step 2, do the following even if you receive a notice of claim of exemption from the court:

Hold subject to this garnishment the debt or property now in your possession, control or custody until you receive written notice from the Sheriff. The Sheriff's notice should tell you what to do with the debt or property. If the debt or property is not convenient for you to deliver to the Sheriff and you want the Sheriff to come get the property, you must explain this fact on the certificate.

If you have followed all of the steps in this writ and you receive no notice from the Sheriff within 30 days after this writ was delivered to you, you may treat this garnishment as being of no further force or effect.

As long as this writ is in effect, you may be liable to the Creditor if you pay any debt or turn over any property to the Debtor, except the exempt portion of any wages you owe to the Debtor unless you are otherwise directed by the court or unless the claim or judgment for which this Writ of Garnishment was given is satisfied in full.

EARNINGS EXEMPTION COMPUTATION SCHEDULE

The Garnishee must complete the following form and fill in the correct amounts only if the Garnishee is an employer of the Debtor under ORS 23.175.

- 1. Debtor's gross weekly "earnings" \$
2. Amounts required to be withheld by law (Federal and state withholding, social security, etc.) \$
3. Debtor's "disposable earnings" for week - Subtract line 2 from line 1 \$
4. Minimum Exemption (a) For wages payable before June 30, 1992 \$150 (b) For wages payable

— I am holding personal property other than money, but it is inconvenient to deliver the property to the Sheriff. I will hold the property until the Sheriff picks it up. (Explain)

— I have received a notice of claim of exemption and am forwarding funds to the clerk of court.
 — Other (Explain)

Dated _____, 19____

Name of Garnishee _____

Signature _____

Address _____

(Statutes affecting Garnishee responses include ORS 29.139, 29.142, 29.155, 29.195, 29.235, 29.245, 29.255, 29.275, 29.285 and 29.305)

[1987 c.873 §8; 1989 c.810 §4; 1989 c.876 §12; 1991 c.845 §6; 1993 c. 261 §2; 1993 c.798 §42]

Note: Legislative Counsel has substituted "chapter 798, Oregon Laws 1993," for the words "this 1993 Act" in section 42, chapter 798, Oregon Laws 1993, which amended 29.147. Specific ORS references have not been substituted, pursuant to 173.160. The range of sections for which substitutions would be required yields ORS references too numerous to be useful. These sections may be determined by referring to the 1993 Comparative Section Table located in Volume 15 of ORS.

Note: See second note under 29.145.

29.150 [Repealed by 1981 c.898 §53]

29.155 Garnishment of property of defendant held by another person. (1) Property of a defendant in the possession of a person other than the plaintiff or defendant shall be garnished by delivery of all of the following to such person:

(a) A writ of garnishment or a true copy thereof to such person.

(b) Four copies of the writ of garnishment in addition to any requirements under paragraph (a) of this subsection.

(c) Any garnishee's search fee payable as provided for in ORS 29.377.

(2) If any of the items described in subsection (1) of this section are not delivered to the garnishee, the garnishment shall not be effective to garnish any property of the defendant, and the garnishee shall not be required to respond to the garnishment and

may proceed to deal with any property of the defendant as though the writ of garnishment had not been issued. [1981 c.883 §5; 1987 c.873 §9; 1989 c.171 §4; 1989 c.810 §5]

29.160 [Repealed by 1981 c.898 §53]

29.165 Delivery of writ; insurance of deliverer; fee. To be valid, a writ of garnishment must be delivered to the garnishee in one of the following ways:

(1) By certified mail, return receipt requested. If the garnishee refuses to accept delivery by certified mail, the plaintiff may provide for delivery under subsection (2) of this section, but must have a new writ issued in order to claim additional delivery fees.

(2) In person. The following apply when a writ is delivered under this subsection:

(a) The writ may be delivered by any of the following:

(A) The sheriff of the county where the writ of garnishment is to be delivered.

(B) Any competent person 18 years of age or older who is a resident of the State of Oregon and is not a party or attorney in the action.

(b) Notwithstanding paragraph (a) of this subsection, no person other than the sheriff shall deliver a writ of garnishment unless the person has errors and omissions insurance with limits of not less than \$100,000 per occurrence from a company authorized to do business in this state.

(c) The fee for delivery of a writ of garnishment under this subsection shall be no more than the following, based upon population as determined by the most recent federal decennial census:

(A) \$12.50 if the writ is delivered in a county with less than 400,000 population.

(B) \$9.50 if the writ is delivered in a county with not less than 400,000 population. [1981 c.883 §6; 1987 c.873 §10; 1993 c.98 §1]

29.170 [Amended by 1961 c.726 §398; 1965 c.108 §1; 1969 c.95 §1; 1969 c.576 §1; 1977 c.786 §1; repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.175 [Repealed by 1981 c.883 §1]

29.178 [1977 c.623 §2; repealed by 1981 c.883 §33; renumbered 29.115]

29.180 [Repealed by 1981 c.898 §53]

29.185 Person to whom writ to be delivered. (1) Property shall be garnished by delivering the writ of garnishment to the person specified in this section.

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

(a) The individual having possession of the property, if the property is in possession of an individual.

(b) Any person designated by the partnership to accept delivery of a writ of garnishment or any partner, if the property is in possession of a partnership; provided, however, that if the partnership is a limited partnership, the writ of garnishment shall be delivered to any person designated by the partnership to accept delivery of a writ of garnishment or any general partner.

(c) Any person designated by the corporation to accept delivery of a writ of garnishment, or any officer or managing agent of the corporation, if the property is in the possession of a corporation.

(d) If the property is held by a financial institution, as defined in ORS 706.005, 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 delivery of writs of garnishment. Delivery of a writ of garnishment to the manager, assistant manager or other designated person at an office or branch of the financial institution described in this paragraph is effective to garnish all property of the defendant held at all offices and branches of the financial institution located in the state.

(e) The board, department, institution, commission or officer charged with approving a claim for the property, if the property is held by the state, any county, city, school district, or other political subdivision therein, or any board, department, institution or commission of the same.

(3) Notwithstanding ORS 78.3170 (2), if the property is a debt, other than a debt evidenced by a negotiable instrument, negotiable document or the like, the writ of garnishment shall be delivered to the debtor thereon in accordance with subsection (2) of this section.

(4) Notwithstanding ORS 78.3170 (2), if the property is stock of the defendant in a corporation, other than stock represented by a negotiable certificate or the like, the writ of garnishment shall be delivered to the corporation in accordance with subsection (2) of this section.

(5) If the property is a negotiable instrument, certificate, document or the like, the writ of garnishment shall, notwithstanding ORS 77.6020 and 78.3170, be delivered to the person having possession of the same in accordance with subsection (2) of this section. Any such garnishment shall 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 bona

fide purchaser of a security under ORS 78.3020.

(6) If the property is an interest of an heir or legatee in an estate of a decedent, the writ of garnishment shall be delivered to the personal representative of the estate in accordance with subsection (2) of this section.

(7) For purposes of this section, a savings and loan association, including such an association doing business in this state and organized under the laws of another state or of the United States, shall be deemed the debtor of a defendant to whom a certificate, account or obligation, or an interest therein, of the association has been issued, established or transferred and in such case the provisions of subsection (4) of this section shall not apply; provided, however, ownership by a defendant of reserve fund capital stock, or comparable equity stock, or of an interest therein, of any such association shall not be deemed to create such a relationship and the provisions of subsection (4) of this section shall apply. [1981 c.883 §7; 1985 c.676 §58; 1991 c.104 §3; 1993 c.261 §3; 1993 c.545 §115]

Note: See second note under 29.145.

29.190 [Repealed by 1981 c.898 §53]

29.195 Duty of garnishee. (1) The garnishee shall examine the writ of garnishment to determine whether the writ complies on its face with ORS 29.145, 29.147, 29.411 or 29.415, as appropriate. The garnishee shall have no duty to determine whether the plaintiff or sheriff or other person has complied with the requirements of ORS 29.125 to 29.375 and 29.401 to 29.415 or to otherwise determine the effectiveness of the garnishment.

(2) In searching its records for the property of the defendant, the garnishee shall use all of the information contained in the writ of garnishment pertaining to the identity of the defendant. [1981 c.883 §8; 1987 c.873 §11; 1989 c.876 §6]

29.200 [Repealed by 1981 c.898 §53]

29.205 Effect of delivery of writ on property of defendant; safety deposit boxes; property to which garnishment does not apply; set off. (1) Delivery of a writ of garnishment in accordance with ORS 29.155 to 29.185 shall be effective to garnish all property of the defendant which is in the garnishee's possession, control or custody at the time of delivery of the writ of garnishment to the garnishee, including but not limited to property in safe deposit boxes, stock, debts and other obligations then in existence and payable in money, whether due or to become due, property held on expired and unexpired bailments and leases, and property held by the garnishee pursuant to

a security interest granted by defendant to garnishee.

(2) Notwithstanding any other provision of this chapter, but except as provided in ORS 29.375, the duty of a garnishee to deliver any property of the defendant which may be contained in a safe deposit box which is in the garnishee's possession, control or custody at the time of delivery of the writ of garnishment to the garnishee is conditioned upon the plaintiff's first paying to the garnishee, in addition to the search fee provided for in ORS 29.377 (1), all reasonable costs incurred by the garnishee in gaining entry to the safe deposit box. The costs shall be paid to the garnishee by the plaintiff on or before the date the plaintiff pays the sheriff's fees under ORS 29.237. If the plaintiff fails to pay such costs to the garnishee, the garnishment shall not be effective to garnish any property of the defendant which may be contained in any such safe deposit box and the garnishee may proceed to deal with the safe deposit box and its contents as though the writ of garnishment had not been issued. Nothing in this section limits the right of a plaintiff to reach the contents of any safe deposit box in any manner otherwise provided by law.

(3) Notwithstanding subsection (1) of this section, property which may not be taken by garnishment shall include but is not limited to equitable interests, property in the custody of the law, property in the possession of a conservator and property in the possession of a personal representative constituting the subject matter of a trust contained in a duly probated will of a decedent.

(4) In addition to such rights as the garnishee may have at law, in equity or otherwise, if the garnishee is a financial institution, the garnishee may, following delivery of a writ of garnishment or warrant and notice of garnishment to the garnishee, set off such sums as are due from defendant at the time the garnishee receives the writ of garnishment. A garnishee may not set off any amounts which are not otherwise due to be paid but which have been accelerated after the receipt of a writ of garnishment. Notwithstanding any other provision of this chapter, such a garnishee shall have no obligation to remit any sums upon the garnishment which the garnishee has set off pursuant to this subsection. A garnishee who sets off pursuant to this subsection shall disclose the fact and amount of the setoff in the certificate of garnishee prepared and delivered under ORS 29.235, and shall certify therein that the amount set off by the garnishee was due from the defendant to the garnishee at the time the garnishee received the writ of garnishment.

(5) Notwithstanding subsection (1) of this section, if a writ of garnishment is received by a financial institution garnishee after 4 p.m., as to any deposit account held by the garnishee in the name of the defendant, the writ of garnishment will only be effective to garnish those funds that are on deposit in the account at the beginning of the business day following the day on which the writ of garnishment is delivered to the garnishee.

(6) Notwithstanding any other provision of this chapter, if a garnishee discovers that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the defendant under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330) before the garnishee delivers the garnishee's certificate pursuant to ORS 29.235, the garnishment of any property of the defendant in the garnishee's possession, control or custody is stayed pursuant to section 362 of the United States Bankruptcy Code (11 U.S.C. § 362).

(7) For the purposes of this section, "financial institution" has the meaning given that term in ORS 706.005. [1981 c.883 §9; 1989 c.810 §6; 1991 c.104 §4; 1993 c.261 §4; 1993 c.593 §1]

Note: See second note under 29.145.

29.210 [Repealed by 1981 c.898 §53]

29.215 Copy to defendant; method of delivery; duty of plaintiff; civil penalty.

(1) Following delivery of a writ of garnishment to a garnishee, the person or sheriff who mailed or delivered the writ of garnishment shall promptly mail or deliver a copy of the writ of garnishment, together with the notice of exemptions and claim form described in ORS 29.225, to each defendant whose property is being garnished by said writ. The following apply to this subsection:

(a) The person or sheriff may meet the requirements of this subsection by mailing the documents to the address of the defendant provided by the plaintiff.

(b) The plaintiff shall provide to the person or sheriff the last address of the defendant known to the plaintiff.

(c) The person or sheriff may delay garnishment until the plaintiff either provides such address or a statement that the plaintiff has no knowledge of the defendant's address.

(d) The person or sheriff shall have no duty under this subsection if the plaintiff provides a statement that the plaintiff has no knowledge of the defendant's address.

(2) If the plaintiff fails to provide either the defendant's address or a statement that the plaintiff has no knowledge of the defendant's address to the person or sheriff who delivered the writ of garnishment, the court

shall order the plaintiff to return any property which was exempt from garnishment and garnished, and, in any case, shall order the plaintiff to pay a civil penalty of \$200 to the defendant, in addition to all costs and reasonable attorney fees incurred by the defendant in recovering such property and penalty. [1981 c.883 §10; 1987 c.873 §12]

29.220 [Repealed by 1981 c.898 §53]

29.225 Form of notice of exemptions.

(1) The notice of exemptions referred to in ORS 29.215 shall be in substantially the form set forth in this subsection. Nothing in the notice form described under this subsection is intended either to expand or restrict the law relating to exempt property. Whether property is exempt from execution, attachment and garnishment shall be determined by reference to other law. The form may be modified either to provide more complete information or to update the notice based on subsequent changes in exemption laws. However, any such modification shall not be required. The following form is for notice of exemption:

NOTICE OF EXEMPT PROPERTY

Property belonging to you may have been taken or held in order to satisfy a claim or judgment which has been asserted or entered against you. Important legal papers are enclosed.

YOU MAY BE ABLE TO GET YOUR PROPERTY BACK, SO READ THIS NOTICE CAREFULLY.

State and federal law say certain property may not be taken. Some of the property which may not be taken is listed below.

(1) Wages or a salary as described in ORS 23.175 and 23.185 (whichever of the following amounts is more: (a) 75 percent of your take-home wages; (b) For wages payable before June 30, 1992, \$150; (c) For wages payable before June 30, 1993, \$160; or (d) For wages payable on or after July 1, 1993, \$170).

(2) Social security (including SSI).

(3) Public assistance (welfare).

(4) Unemployment benefits.

(5) Disability benefits.

(6) Workers' compensation benefits.

(7) Exempt wages, social security, welfare, unemployment benefits and disability benefits when placed in a checking or savings account (up to \$7,500).

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

(9) A homestead (home, farm, manufactured dwelling, houseboat) if you live in it, to the value of \$20,000 (\$23,000 for a manufactured dwelling with land included; \$25,000 for any other homestead with land included) or proceeds from its sale for one (1) year.

(10) Household goods, furniture, radios, a television set and utensils to \$3,000.

*(11) Automobile, truck, trailer or other vehicle to \$1,700.

*(12) Tools, implements, apparatus, team, harness or library necessary to carry on your occupation to \$3,000.

*(13) Books, pictures and musical instruments to \$600.

*(14) Wearing apparel, jewelry and other personal items to \$1,800.

(15) Domestic animals and poultry for family use to \$1,000 and their food for 60 days.

(16) Provisions (food) and fuel for your family for 60 days.

(17) One rifle or shotgun and one pistol. The combined value of all firearms claimed as exempt may not exceed \$1,000.

(18) Public or private pensions.

(19) Veterans benefits and loans.

(20) Medical assistance benefits.

(21) Health insurance proceeds and disability proceeds of life insurance policies.

(22) Cash surrender value of life insurance policies not payable to your estate.

(23) Federal annuities.

(24) Other annuities to \$250 per month, excess over \$250 per month subject to same exemption as wage.

(25) Professionally prescribed health aids for you or any of your dependents.

*(26) A tax refund allowed pursuant to ORS 310.635 or 310.640 as set forth in ORS 310.637.

*(27) Your right to receive, or property traceable to:

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

*(b) A payment, not exceeding \$7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of you or an individual of whom you are a dependent.

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

(28) Interest in personal property to the value of \$400, but this cannot be used to increase the amount of any other exemption.

(29) The difference between what you actually owe the creditor and the total amount due listed in the writ of garnishment, if the amount listed in the writ is larger.

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

You must act promptly if you want to get your money or property back. You may seek to reclaim your exempt property by doing the following:

- (1) Fill out the form for claim of exemption that you received with this notice.
(2) Within 90 days after you received this notice, mail or deliver the form for claim exemption to the clerk of court at the address shown on the writ of garnishment.
(3) Although (2) above allows you to claim an exemption, the law only requires the creditor to hold the money or property for 10 days before applying it to the creditor's use. You may be able to keep the property from being used by the creditor before being allowed a hearing by promptly following (1) and (2) above.

You should be prepared to explain your exemption in court. If you have any questions, you should see an attorney.

IF YOU CLAIM AN EXEMPTION IN BAD FAITH, YOU MAY BE SUBJECT TO PENALTIES IMPOSED BY THE COURT THAT COULD INCLUDE A FINE.

Penalties you could be subject to are listed in ORS 29.142.

When you file this claim of exemption, the garnishee and Creditor will be required to pay any debt or obligation they hold into court. They are subject to penalties if they do not. For a more complete explanation of their responsibilities, see ORS 29.142.

(2) The claim of exemption form referred to in subsection (1) of this section, ORS 29.142 and 29.215 shall be in substantially the following form:

Plaintiff vs. Defendant) CLAIM OF EXEMPTION Case No. _____

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

I/We believe this property is exempt because:

Name Signature Address Telephone Number (Required)

[1981 c.883 §11a; 1987 c.399 §1; 1987 c.873 §13; 1991 c.845 §4; 1993 c.18 §8; 1993 c.439 §8]

Note: See note under 29.142.

29.230 [Repealed by 1981 c.898 §53]

29.235 Certificate of garnishee; delivery of certificate. Within five days from the date the writ of garnishment is delivered to the garnishee, the garnishee, subject to ORS 29.255, shall comply with all the following that are applicable:

(1) The garnishee shall prepare a certificate and deliver the certificate as provided under subsection (3) or (6) of this section. On the certificate, the garnishee shall state whether the garnishee has any property of the defendant and, if so, shall state the amount and description of any property of the defendant in the possession, control or custody of the garnishee at the time of delivery of the writ of garnishment, or an amount thereof sufficient to satisfy the plaintiff's claim or judgment, whichever is less. In complying with this subsection a garnishee shall do the following:

(a) In preparing the certificate, the garnishee shall prorate any wages or periodic payments earned over time to determine what amount of debt is in existence on the date the garnishee received the writ of garnishment, or if the garnishee has received a writ of continuing garnishment, any wages shall be prorated to determine what amount of debt is in existence on the date the continuing garnishment expires.

(b) The garnishee shall deliver copies of the certificate as provided under subsection (3) or (6) of this section. The certificate shall be in substantially the form set forth in the writ of garnishment described in ORS 29.145, 29.147, 29.411 or 29.415, as appropriate.

(c) If the garnishee can tell from the writ that the garnishee may owe money to or hold property of the defendant but is not sure what or how much, the garnishee shall so

state on the certificate and shall state that the garnishee will file an amended certificate when the garnishee finds out. When the garnishee determines whether, what or how much the garnishee owes or holds, the garnishee shall file an amended certificate.

(2) If the garnishee determines that the writ of garnishment does not comply on its face with ORS 29.145, 29.147, 29.411 or 29.415, as appropriate, or if the garnishee is unable to determine from the information contained in the writ whether the property the garnishee holds is the property of the defendant, the writ of garnishment shall be ineffective to garnish the property of the defendant. If this subsection applies, the garnishee shall deliver its certificate as provided under subsection (6) of this section, noting thereon:

(a) The noncompliance with ORS 29.145, 29.147, 29.411 or 29.415; or

(b) The garnishee's inability to determine from the information contained in the writ whether the garnishee holds property of the defendant.

(3) If, after exercising any applicable right of setoff, the garnishee has no property of the defendant in the garnishee's possession, control or custody at the time of delivery of the writ of garnishment to the garnishee, the garnishee shall so note on the writ and shall deliver its certificate to the plaintiff, or if the name and address of the attorney is shown on the writ, the plaintiff's attorney.

(4) If, after exercising any applicable right of setoff, the garnishee has property of the defendant in the garnishee's possession, control or custody at the time of delivery of the writ of garnishment to the garnishee, the garnishee shall comply with all of the following that are applicable:

(a) If the property garnished is a debt or other obligation payable in money, the garnishee shall deliver the certificate of garnishee and the copies as provided under subsection (6) of this section. Unless otherwise directed by the court, the garnishee shall also then pay to the plaintiff or plaintiff's attorney the money or so much of the money as will satisfy the claim or judgment, less any garnishment processing fee levied by the garnishee as permitted by ORS 29.377, unless the garnishee has received a notice of claim of exemption. In the case of a continuing garnishment issued under ORS 29.401, the garnishee shall also pay to the plaintiff or the plaintiff's attorney the money or so much of the money as will satisfy the claim or judgment at the end of each pay period within the 90-day period and at the end of the 90-day period.

(b) If the property garnished is property other than a debt or other obligation payable in money, the garnishee shall mail or deliver its certificate to the sheriff of the county in which the writ was delivered, together with a copy of the writ. The delivery to the sheriff under this paragraph is in addition to delivery under subsection (6) of this section. The garnishee shall then hold the garnished property, or an amount thereof sufficient to satisfy the garnishment, until the sheriff notifies the garnishee, under ORS 29.237, either what to do with such property or that the garnishment is terminated or released. Upon receiving notice from the sheriff, the garnishee shall comply with the applicable provisions of ORS 29.255.

(c) If the garnishee receives a notice of claim of exemption while holding garnished property, the garnishee shall comply with any applicable provisions under ORS 29.142 and 29.255.

(5) If a garnishee discovers that a voluntary or involuntary bankruptcy petition is filed by or on behalf of the defendant under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330) before the garnishee delivers the garnishee's certificate required by this section, the garnishee shall prepare a certificate that contains a statement that the garnishee has discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the defendant. The statement shall be in addition to the information required by subsection (1) of this section. The garnishee must deliver the certificate in the manner provided by subsection (6) of this section.

(6) Except as provided in subsection (3) of this section, when this section requires a garnishee to deliver any certificate or other response, the garnishee shall do so by mailing or delivering to all of the following people at the addresses stated in the writ of garnishment:

(a) The clerk of the court.

(b) The plaintiff or, if the name and address of the attorney is shown on the writ, the plaintiff's attorney.

(c) The defendant. [1981 c.883 §12; 1983 c.622 §3; 1987 c.873 §14; 1989 c.810 §7; 1989 c.876 §7; 1993 c.18 §9; 1993 c.261 §5]

Note: See second note under 29.145.

29.237 Receipt of certificate of garnishee by sheriff; duties. Notwithstanding ORS 29.275 and without limiting its effect, the sheriff shall accept a garnishee's certificate that is mailed or delivered to the sheriff under ORS 29.235 after five days from the date the writ of garnishment was delivered to the garnishee. Upon the sheriff's re-

ceipt of the garnishee's certificate, the following are applicable to the sheriff:

(1) Within five days after the receipt by the sheriff of a garnishee's certificate pursuant to ORS 29.235, the sheriff shall send or deliver a copy of the certificate to the plaintiff or plaintiff's attorney, together with a notice setting forth the sheriff's fees for taking possession of and selling the property and advising the plaintiff that the sheriff will direct the garnishee to deliver the property described in the certificate only if, within 20 days after the date on which the writ of garnishment was delivered to the garnishee, the sheriff receives the fees set forth in the notice. The sheriff shall then proceed as provided under ORS 29.265.

(2) If the plaintiff pays the sheriff's fees within the time provided in subsection (1) of this section, the sheriff shall promptly mail or deliver a written notice to the garnishee directing the garnishee to mail or deliver the garnished property, or an amount thereof sufficient to satisfy the garnishment, to the sheriff.

(3) If the plaintiff fails to pay the sheriff's fees within the time provided in subsection (1) of this section, upon the expiration of that period the garnishment of the property described in the garnishee's certificate shall be of no further force or effect, and the sheriff shall promptly give the garnishee notice in writing of the termination of the garnishment.

(4) If the property held by the garnishee is a debt which is then in existence but not yet due, and which will not become due within 45 days after the date on which the writ of garnishment is delivered to the garnishee, or if the property is in the possession of the garnishee on an unexpired bailment or lease, or pursuant to a security interest granted by the defendant to the garnishee, or stock not evidenced by a negotiable certificate, then the sheriff shall do the following:

(a) Upon the sheriff's receipt of the garnishee's certificate, the sheriff shall send or deliver a copy of the certificate to the plaintiff, together with the notice described in subsection (1) of this section. Upon the receipt of the sheriff's fees, at any time after the entry of a judgment against the defendant, unless a claim of exemption has been filed with the clerk and the claim is pending, the sheriff shall sell the defendant's interest in the property according to the certificate.

(b) Within five days following the sale of the defendant's interest in the property, the sheriff shall advise the garnishee in writing of the identity of the purchaser and that the purchaser will be entitled to possession of

the property as provided under ORS 29.355. [1987 c.873 §15]

29.240 [Repealed by 1981 c.898 §53]

29.245 Procedure when property owned by defendant and others. (1) In the case of property in the garnishee's possession which is or appears to be owned by the defendant and one or more other persons, the garnishee may deliver or hold subject to the garnishment all of said property, or so much thereof as is necessary to satisfy the garnishment, pursuant to ORS 29.235.

(2) Nothing contained in subsection (1) of this section shall preclude any of the owners of the property from asserting said owner's interest in or right to said property or any part thereof. To assert such a claim, the owner or owners, or any of them, shall complete and file with the court which issued the writ of garnishment an application in substantially the form set forth in ORS 29.225 (2). Upon the filing of said application, the claim shall be adjudicated in a summary manner at a hearing before said court. [1981 c.883 §13]

29.250 [Repealed by 1981 c.898 §53]

29.255 Duty of garnishee when court directs or release is delivered; effect of due date of debt or sale of defendant's interest; effect on personal representative; payment of exempt wages. In the circumstances described, the following apply to a garnishee and control over any provision of ORS 29.205 to 29.235 or 29.237 that conflicts:

(1) The garnishee shall have no duty to deliver the certificate or to deliver or hold subject to the garnishment any property pursuant to ORS 29.235 if the garnishee is otherwise directed by the court or if a release of the garnishment has been delivered to the garnishee pursuant to ORS 29.365.

(2) The garnishee shall have no duty to deliver or hold subject to the garnishment any property of the defendant or debt owed to the defendant which, at the time the writ of garnishment or warrant and notice of garnishment was delivered to the garnishee, was in the possession, custody or control of the garnishee or was owed by the garnishee to the defendant if such property was removed from the possession, custody or control of the garnishee or such debt was paid to the defendant before the garnishee, through the exercise of reasonable care, could act to prevent the removal of the property from the garnishee's possession, custody or control, or the payment of the debt owed to the defendant.

(3) If the property is a debt which is then in existence but not yet due, and which will become due within 45 days after the date on

which the writ of garnishment is delivered to the garnishee, the following apply to the garnishee:

(a) The garnishee shall comply with ORS 29.235 relating to the preparation and delivery of the certificate.

(b) The garnishee is not required to deliver the property until the debt becomes due. Then, within five days after the debt becomes due, unless the garnishment has been satisfied or released, the garnishee shall mail or deliver to the appropriate person under ORS 29.235 or 29.237 the amount of the debt then due, or an amount thereof sufficient to satisfy the plaintiff's claim or judgment, whichever is less, less any garnishment processing fee levied by the garnishee as permitted by ORS 29.377.

(c) If the garnishee receives a notice of claim of exemption at any time before the garnishee mails or delivers the amount due, the garnishee shall comply with ORS 29.142.

(4) If the property is a debt which is then in existence but not yet due, and which will not become due within 45 days after the date on which the writ of garnishment is delivered to the garnishee, or if the property is in the possession of the garnishee on an unexpired bailment or lease, or pursuant to a security interest granted by the defendant to the garnishee, or stock not evidenced by a negotiable certificate, the following apply to the garnishee:

(a) The garnishee shall not be required to deliver the property, but shall instead hold the property pending receipt of the advice provided for in ORS 29.237.

(b) The garnishee shall comply with the requirements of ORS 29.235 to mail or deliver to the sheriff the garnishee's certificate designating the amount and description of the property and shall note thereon the garnishee's reason for not delivering the property.

(c) If the garnishee has not received the notice provided for in ORS 29.237 by the date on which the debt becomes due or the garnishee's interest in the property expires, then, unless the garnishee has been notified in writing by the plaintiff or the sheriff that the sale of the defendant's interest therein has been delayed, the garnishee may proceed to deal with the property as if the garnishment had not been issued.

(d) Within five days following the garnishee's receipt of written notice from the sheriff, identifying the purchaser of the defendant's interest, the garnishee shall pay the debt, less any garnishment processing fee levied by the garnishee as permitted in ORS 29.377, or deliver the property, as the case may be, to the purchaser of the defendant's

interest therein. However, if, upon the garnishee's receipt of said written advice or notice, the debt remains not yet due or the bailment, lease or security interest has not yet expired or been satisfied or released, as the case may be, the garnishee shall not be required to deliver the property to the purchaser or the defendant until five days after the debt is due, the bailment or lease has expired, or the indebtedness secured by the property is satisfied or the security interest is released.

(5) Garnishment shall not impair the powers of a personal representative over estate property for the purposes of administration. The personal representative shall prepare a certificate, noting thereon that the property is estate property subject to administration. Such certificate shall be delivered in compliance with ORS 29.235. The personal representative shall also file a copy of the writ of garnishment and certificate in the office of the clerk of the court in which the estate is being administered and report the garnishment to the court in any petition for distribution. In a decree made upon such petition, distribution shall be ordered to the heir or legatee, but delivery shall be ordered to the sheriff, the plaintiff or the plaintiff's attorney, as the case may be.

(6) If the garnishee receives notice from the sheriff under ORS 29.237 within 30 days after the writ of garnishment was delivered to the garnishee, the garnishee shall mail or deliver the garnished property, or an amount thereof sufficient to satisfy the garnishment, less any garnishment processing fee levied by the garnishee as permitted in ORS 29.377, to the sheriff within five days after receipt of the notice. In the following circumstances, however, the garnishee is not required to mail or deliver property to the sheriff, but shall comply with the following:

(a) If the property is not conveniently deliverable, the garnishee may note that fact on the certificate, and may continue to hold the property until the sheriff takes possession thereof.

(b) If the garnishee receives notice from the sheriff that the plaintiff has failed to pay the sheriff's fees within the time required by ORS 29.237, effective on the date of such receipt the garnishee may deal with the garnished property as if the writ of garnishment had not been delivered to the garnishee.

(c) If the garnishee receives no notice from the sheriff under ORS 29.237 within 30 days after the date on which the writ of garnishment was delivered to the garnishee, the garnishment shall be of no further force or effect, and the garnishee may deal with the garnished property as if the writ of

garnishment had not been delivered to the garnishee.

(7) Garnishees who are employers shall pay the exempt portion of earnings to defendants who are employees. The garnishee may determine the exempt portion of such earnings in accordance with the Earnings Exemption Computation Schedule contained in the writ of garnishment delivered to the garnishee.

(8) Notwithstanding any provision of ORS 29.125 to 29.375 and 29.401 to 29.415, the garnishee may deliver under ORS 29.235 or to the clerk of the court any property that the garnishee reasonably believes may have been garnished. The garnishee shall have no duty to determine whether property held by the garnishee is exempt from garnishment or is a property interest subject to garnishment. [1981 c.883 §14; 1987 c.873 §16; 1989 c.810 §8]

29.260 [Repealed by 1981 c.898 §53]

29.265 Disposition of property delivered to court clerk or sheriff; payment of expenses; claim of exemption. (1) Property delivered to the clerk of the court in accordance with ORS 29.235 shall be disposed of as follows:

(a) If the writ of garnishment was issued pursuant to an order for provisional process, the clerk shall hold the money pending final judgment against the defendant unless the court finds, upon a claim of the defendant, that the property, or some part thereof, is exempt from execution. If final judgment is rendered in favor of the defendant, the court shall order the clerk to pay the money to the defendant. If final judgment is rendered in favor of plaintiff, unless a claim of exemption has been filed by the defendant with the clerk and is pending, the court shall order the clerk to pay to the plaintiff so much of the money as will satisfy the judgment, and to pay the remainder to the defendant.

(b) If the writ of garnishment was issued pursuant to a final judgment, the clerk shall proceed as provided under ORS 29.138, 29.139 and 29.142 with respect to any money or property delivered to the clerk.

(2) Property delivered to the sheriff in accordance with ORS 29.235, 29.237 or 29.255 shall be disposed of as follows:

(a) If the writ of garnishment was issued pursuant to an order for provisional process, the sheriff shall hold nonperishable property pending final judgment against the defendant unless the court finds, upon a claim of the defendant, that the property, or some part thereof, is exempt from execution. If final judgment is rendered in favor of the defendant, the court shall order the sheriff to deliver the property to the defendant. If final judgment is rendered in favor of the plaintiff,

unless a claim of exemption has been filed by the defendant with the clerk and is pending, the court shall order the sheriff to sell the property in the same manner in which property is sold on execution.

(b) If the writ of garnishment was issued pursuant to a final judgment, then 15 days after receipt of the property, unless a claim of exemption has been filed under ORS 29.142 and is pending, the sheriff shall sell the property in the same manner in which property is sold on execution. If the sheriff receives a notice of claim of exemption under ORS 29.142, the sheriff shall hold the property pending a court order and shall dispose of the property as ordered by the court.

(c) If the garnished property is perishable, or livestock and the cost of keeping is great, the sheriff shall sell the property in the same manner in which property is sold on execution.

(3) The plaintiff shall be liable for the sheriff's reasonable expenses in taking and keeping property tendered pursuant to this section. If final judgment is rendered in favor of the plaintiff, such expenses shall be allowed as disbursements.

(4) Notwithstanding subsections (1) and (2) of this section, if the plaintiff notifies the clerk or the sheriff that the money or property should be released to the defendant, the clerk or the sheriff shall promptly release it. [1981 c.883 §15, 1987 c.873 §17]

29.270 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.275 Liability of garnishee who fails to file certificate or deliver property; discharge of liability. (1) Unless the garnishee shall file a certificate and deliver the property required to be delivered to the sheriff or clerk of the court within the time provided by law, the garnishee shall be liable to the plaintiff in an amount equal to the lesser of:

(a) The amount required to satisfy plaintiff's claim or judgment; or

(b) The value of the defendant's property held by the garnishee at the time of the garnishee's receipt of the writ of garnishment.

(2) Delivery of the property by the garnishee to the sheriff or clerk of the court, as the case may be, shall discharge the garnishee from liability to the plaintiff for the value thereof. The sheriff or clerk of the court shall, when requested, provide the garnishee with a receipt for any property received. [1981 c.883 §16]

29.280 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.285 When garnishee punishable for contempt. If a garnishee fails to provide a certificate within the time stated, or if a

certificate, when given, is unsatisfactory to the plaintiff, or if the garnishee fails to deliver property within the time stated, the garnishee or an officer of the garnishee may be ordered by the court where the action is pending or judgment has been entered to appear and be examined on oath concerning the same, and disobedience of such order may be punished as contempt. [1981 c.883 §17]

29.290 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.295 Effect of order under ORS 29.285. The order provided for in ORS 29.285 shall require such person or officer to appear before the court at a stated time and place. In the proceedings upon the order, the person or the association or corporation represented by an officer shall be known as the garnishee. [1981 c.883 §18]

29.300 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.305 Restraining garnishee from disposing or injuring property of defendant. The court may, at the time of the application of the plaintiff for the order provided for in ORS 29.285, or at any time thereafter, by order, restrain the garnishee from in any manner disposing of or injuring any of the property of the defendant alleged by the plaintiff to be in the garnishee's possession, and disobedience of such order may be punished as contempt. [1981 c.883 §19]

29.310 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.315 Appearance under order. After the allowance of the order provided for in ORS 29.285, and not less than 20 days before the garnishee or officer thereof shall be required to appear, or within a time to be specified in the order, the plaintiff shall serve upon the garnishee or officer thereof written allegations, and may serve written interrogatories concerning matters relating to the garnishment. [1981 c.883 §20]

29.320 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.325 Answer of garnishee; effect of failure to answer. (1) Unless further time is allowed for good cause, not less than 10 days prior to the day when the garnishee or officer thereof is required to appear, the garnishee shall file an answer to the allegations and interrogatories with the court and deliver a true copy of the answer to the plaintiff. The answer shall be on oath, and shall contain a full and direct response to all the allegations and interrogatories.

(2) If the garnishee or officer thereof fails to answer, the court, on motion of the plaintiff, may compel the garnishee or officer thereof to do so, or the plaintiff may, at any time after the entry of judgment against the defendant, have judgment against the garnishee for want of answer. In no case shall judgment be given against the

garnishee for a greater amount than the judgment against the defendant. [1981 c.883 §§21, 22]

29.330 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.335 Insufficient answer; amendment; plaintiff's response. Plaintiff may except to the answer of the garnishee or officer thereof for insufficiency, within such time as may be prescribed or allowed, and if the answer is adjudged insufficient, the garnishee or officer may be allowed to amend the answer, on such terms as may be proper, or judgment may be given for the plaintiff as for want of answer, or such garnishee or officer may be compelled to make a sufficient answer. The plaintiff may reply to the whole or a part of the answer within such time as may be prescribed or allowed. [1981 c.883 §23]

29.340 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.343 Witnesses; trial of issues as issues of law. Witnesses, including the defendant and garnishee or officer thereof, may be required to appear and testify, and the issues shall be tried, upon proceedings against a garnishee, as upon the trial of an issue of law between a plaintiff and defendant. [1981 c.883 §24]

29.345 When judgment given against garnishee; amount. If by the answer it shall appear, or if upon trial it shall be found, that the garnishee, at the time of the delivery of the garnishment documents, held property beyond the amount required to be reported in the certificate, or held any property if no certificate was given, or failed to deliver property required to be delivered, judgment may be given against the garnishee for the value thereof in money. [1981 c.883 §25]

29.350 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.355 Execution and writ against garnishee; when execution to issue. Executions and writs of garnishment may issue upon judgment against a garnishee as upon ordinary judgments between a plaintiff and a defendant, and costs and disbursements shall be allowed and recovered in like manner; provided, however, when judgment is rendered against any garnishee, and property of the defendant in the possession of the garnishee is a debt owing by the garnishee to the defendant not yet due, a bailment or lease which has not yet expired, or a security interest in favor of garnishee, execution shall not issue until the debt is due, bailment or lease has expired, or the indebtedness secured by the property is satisfied or security interest released. [1981 c.883 §26]

29.357 Procedure for writs issued by agency to enforce civil penalty orders; modification of forms; claims of exemption. Whenever a writ of garnishment is issued pursuant to ORS 29.137 (2)(b), the

provisions of ORS 29.125 to 29.375 and 29.401 and 29.415 shall apply, except that:

(1) The original certificate of garnishee and schedule must be returned to the attorney issuing the writ of garnishment.

(2) Any claim of exemption must be filed with the clerk of the circuit court in the county where the civil penalty order is recorded.

(3) Any attorney issuing a writ of garnishment pursuant to ORS 29.137 (2)(b) shall modify the forms provided in ORS 29.147, 29.225 and 29.415 to reflect that:

(a) The writ of garnishment is issued pursuant to a civil penalty order recorded in the County Clerk Lien Record pursuant to ORS 183.090;

(b) The original certificate of garnishee and schedule must be returned to the attorney issuing the writ of garnishment; and

(c) Any claim of exemption must be filed with the clerk of the circuit court in the county where the civil penalty order is recorded, and the claim must include the name and address of the plaintiff.

(4) Upon the filing of a claim of exemption under subsection (2) of this section, the clerk of the court shall enter the filing in the court register and shall proceed as provided in ORS 29.142.

(5) Immediately upon receipt of notice pursuant to ORS 29.142 (2)(a), the attorney who issued the garnishment shall file with the clerk of the court a response to the claim of exemption attaching the following as exhibits:

(a) A copy of the civil penalty order certified by the agency;

(b) A copy of the recording made in the County Clerk Lien Record, certified by the county clerk, containing all of the information required by ORS 205.125;

(c) Copies of the writ of garnishment and original certificate of garnishee and schedule, certified by the attorney; and

(d) Any other supporting documentation necessary or helpful to the court in making its determination. [1991 c.734 §2c]

29.360 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.365 Release; effect. The plaintiff or plaintiff's agent or attorney may issue releases of garnishments that may cover all or any portion of the property held under garnishment. The following apply when property is released under this section:

(1) The plaintiff shall deliver a copy of the release to the defendant. The plaintiff or plaintiff's agent or attorney or the defendant

shall immediately deliver a duplicate original of the release to all of the following:

(a) The clerk of the court where the judgment was originally entered or, if a foreign judgment registered in this state, where first filed in this state.

(b) The garnishee.

(c) If the sheriff is holding or selling any of the defendant's property, the sheriff.

(2) A person who does not receive notice of the release under this section shall not be liable for dealing with the property as if it were subject to garnishment.

(3) Any pending proceedings in such case for the sale upon execution of any property so garnished shall, as to all property covered by the release, thereupon be terminated and be considered of no effect.

(4) Upon receipt by the garnishee of the duplicate original release, the garnishee, and all property subject to such garnishment, shall to the extent stated in the release, be released from all liability arising by reason of the issuance and service of the writ of garnishment, or by reason of the garnishee's return thereon as though the garnishment documents had not been served. The garnishee may rely upon any such release so received without any obligation to inquire into the authority therefor. [1981 c.883 §27; 1987 c.873 §18]

29.367 Recovery of certain costs relating to enforcement of judgments and collection of taxes. This section establishes the right of a plaintiff to recover certain moneys the plaintiff has expended to recover a debt under ORS 29.375 or to enforce a judgment and establishes procedures for that recovery. The following apply to this section:

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

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

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

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

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

(4) This section allows the recovery only of the following statutorily established moneys that meet the requirements under subsection (3) of this section:

(a) Garnishee's search fees under ORS 29.377 (1).

(b) Fees for delivery of writs of garnishment under ORS 29.165.

(c) Circuit and district court fees as provided under ORS 21.060.

(d) County court fees as provided under ORS 21.375.

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

(f) Actual fees or disbursements made under ORS 21.410.

(g) Costs of execution as provided in ORS 105.112.

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

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

(b) Providing reasonable notice to the defendant of moneys the plaintiff recovers under subsection (1)(a) of this section.

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

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

(8) A writ of garnishment or attachment is not valid if issued solely to recover moneys recoverable under subsection (1)(a) of this section unless the right to collect the moneys is first reduced to a judgment or to

a debt enforceable under ORS 29.375. [1989 c.810 §13; 1989 c.910 §4; 1991 c.67 §5]

29.370 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

29.373 Authority of county to issue continuing writ of garnishment; duration; certificate of garnishee. (1) Notwithstanding ORS 29.138 (2) and 29.139 (2), when the plaintiff on whose behalf a writ of garnishment is issued is a county or county agency, if the garnishment is on an employer, the writ of garnishment shall continue in full force and effect on the garnishee until the garnishee pays the full amount of the debt owed to the county or county agency or until the writ of garnishment is released by the county, county agency or by court order. Notwithstanding ORS 29.145 and 29.147, a writ of garnishment described in this subsection shall contain language reasonably designed to notify the garnishee of the provisions of this section.

(2) Each time an amount due the defendant is payable, and in any event not less than once every 30 days, until the writ of garnishment is no longer effective, the garnishee shall make the delivery required by subsection (3) of this section.

(3) Notwithstanding ORS 29.235, the garnishee shall deliver the certificate of the garnishee together with the garnished property to the county or county agency on whose behalf the writ of garnishment was issued.

(4) Except as provided in this section, all provisions of ORS 29.125 to 29.365 shall apply to garnishments under this section. [1989 c.1081 §2]

Note: 29.373 was added to and made a part of ORS chapter 29 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

29.375 Authority of state agency and county tax collector to garnish property by warrant and notice; procedure. (1) Notwithstanding ORS 29.155, any state agency authorized to issue warrants to collect taxes and debts owed to the State of Oregon, including but not limited to warrants issued pursuant to ORS 179.655, 267.385, 314.430, 316.207, 320.080, 321.570, 323.390, 657.642 and 767.865, or any county tax collector authorized to issue warrants to collect taxes and debts owed to the county pursuant to ORS 311.625, may garnish property of a defendant in the possession of a person other than the plaintiff or defendant by delivery to such person of all of the following:

(a) A warrant or true copy thereof together with a notice of garnishment;

(b) One additional copy of the warrant and of the notice of garnishment in addition

to the originals or true copies required under paragraph (a) of this subsection; and

(c) Any garnishee's search fee payable as provided for in ORS 29.377.

(2) If any of the items described in subsection (1) of this section are not delivered to the garnishee, the garnishment shall not be effective to garnish any property of the defendant, and the garnishee shall not be required to respond to the garnishment and may proceed to deal with any property of the defendant as though the writ of garnishment had not been issued.

(3)(a) Where the garnishment is on an employer, a state agency shall use a notice of continuous garnishment as the notice of garnishment under subsection (1) of this section. A continuous garnishment shall continue in full force and effect on the garnishee until the garnishee has paid the state agency the full amount of the warrant, or the garnishment is released by the agency or by court order, or other disposition is made by court order. The garnishment shall contain language reasonably designed to notify the garnishee of the provisions of this subsection.

(b) Each time an amount due the defendant is payable, and in any event not less than once every 30 days, until the continuous garnishment is no longer effective the garnishee shall make the delivery required by subsection (6) of this section.

(c) Notwithstanding paragraph (a) of this subsection, if the state agency has reason to believe that a taxpayer intends to leave the state or do any other act that would jeopardize the collection of any tax or debt owed to the state, the state agency may issue a garnishment pursuant to subsection (1) of this section.

(4) Notwithstanding ORS 29.165, a warrant or true copy thereof and notice of garnishment delivered under subsection (1) or (3) of this section by a state agency, or a warrant or true copy thereof and notice of garnishment delivered under subsection (1) of this section by a county tax collector, may be delivered in person by any employee of the state agency or the county tax collector authorized by the agency or the county to deliver such warrant or true copy thereof and notice of garnishment, or by certified mail return receipt requested. Such employee need not be covered by errors and omissions insurance as provided by ORS 29.165.

(5) Notwithstanding ORS 29.205, the duty of a garnishee to deliver any property of the defendant which may be contained in a safe deposit box which is in the garnishee's possession, control or custody at the time of de-

livery of the warrant or true copy thereof and notice of garnishment to the garnishee is conditioned upon the state agency or the county tax collector first paying to the garnishee, in addition to the search fee provided for in ORS 29.377 (1), all reasonable costs incurred by the garnishee in gaining entry to the safe deposit box. The costs shall be paid to the garnishee by the state agency or the county tax collector at least five days before the date the state agency or the county tax collector takes possession of the property in the safe deposit box. If the state agency or the county tax collector fails to pay such costs to the garnishee within 30 days after the delivery of the warrant or true copy thereof and notice of garnishment, the garnishment shall not be effective to garnish any property of the defendant which may be contained in any such safe deposit box and the garnishee may proceed to deal with the safe deposit box and its contents as though the notice of garnishment had not been issued. Nothing in this section limits the rights of a state agency or county tax collector to reach the contents of any safe deposit box in any manner otherwise provided by law.

(6) Notwithstanding ORS 29.235, 29.237 and 29.255, the garnishee shall deliver the certificate of the garnishee together with the garnished property, less any garnishment processing fee levied by the garnishee as permitted in ORS 29.377, to the state agency or the county tax collector which issued the warrant.

(7) Except as provided in this section and ORS 29.377, all provisions of ORS 29.125 to 29.365 shall apply to garnishments under a warrant or true copy thereof and notice of garnishment.

(8) A county tax collector may only issue a notice of garnishment under subsection (1) of this section and may not issue a notice of continuing garnishment under subsection (3) of this section. At least 15 days before any county tax collector issues a notice of garnishment under the provisions of subsection (1) of this section, the tax collector must mail to the defendant by certified mail, return receipt requested, at the defendant's last-known address, a notification of all amounts owing to the county, a statement that further collection enforcement action may be taken by the county to collect those amounts, and a statement that those enforcement actions may include seizing of any real property of the defendant, imposing a lien against any real property owned by the debtor, or garnishment of bank accounts or wages of the debtor. Only one such notification shall be required and any number of garnishments may be issued after the notifi-

cation is mailed. [1981 c.883 §28; 1983 c.622 §2; 1989 c.810 §9; 1991 c.567 §1; 1993 c.593 §2]

29.377 Financial institution as garnishee; search fee. (1) When a writ of garnishment is or a warrant or true copy thereof and notice of garnishment are delivered to a garnishee that is a financial institution as defined in ORS 706.005, the plaintiff shall pay a garnishee's search fee of \$5 to the garnishee unless the defendant is an employee of the garnishee.

(2) Notwithstanding ORS 29.145, 29.147 and subsection (1) of this section, a garnishee that is a financial institution may enter into an agreement with any state agency authorized to garnish pursuant to ORS 29.375 for periodic billing and payment of the \$5 garnishee search fees required under this section.

(3) The right of the garnishee to receive the search fee provided for in subsection (1) or (2) of this section shall in no way restrict or impair the right of a garnishee to charge and collect an additional garnishment processing fee from any defendant whose property the garnishee holds or to whom the garnishee owes a debt. However, a garnishee shall not charge or collect a garnishment processing fee in violation of ORS 652.610. Where the garnishee charges such a garnishment processing fee, the garnishee may collect the fee by deducting the amount thereof from any debt the garnishee owes to the defendant. [1989 c.810 §2; 1991 c.567 §2; 1993 c.261 §6]

Note: See second note under 29.145.

29.380 [Repealed by 1981 c.898 §53]

29.390 [Repealed by 1981 c.898 §53]

29.395 Severability. If any provision of ORS 12.085, 21.375, 21.410, 23.185, 23.425 and 29.115 to 29.395 and ORCP 81 and 84 C and D or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provision or application of ORS 12.085, 21.375, 21.410, 23.185, 23.425 and 29.115 to 29.395 and ORCP 81 and 84 C and D which can remain in effect without the invalid provision or application, and to this end the provisions of ORS 12.085, 21.375, 21.410, 23.185, 23.425 and 29.115 to 29.395 and ORCP 81 and 84 C and D are severable. [1981 c.883 §40]

29.400 [Repealed by 1981 c.883 §1 and 1981 c.898 §53]

WRIT OF CONTINUING GARNISHMENT

29.401 Who may obtain writ; duration.

In addition to garnishment proceedings otherwise available under ORS 29.125 to 29.375

and 29.401 to 29.415, a person for whom a writ of garnishment may be issued under ORS 29.137 may obtain a writ of continuing garnishment against any garnishee who is an employer of the defendant. To the extent that the earnings are not exempt from garnishment, the garnishment shall be a lien and continuing levy against earnings owed by the garnishee to the defendant at the time of service of the writ of continuing garnishment and on all earnings accruing from the garnishee to the defendant from the date of service until 90 days have expired since the date of issuance of the writ or until the employment relationship is terminated, the underlying judgment is vacated, modified or satisfied in full or the writ is dismissed, whichever is sooner. [1989 c.876 §2; 1991 c.845 §9]

29.405 Multiple writs; priority. (1) Only one writ of garnishment against earnings due the defendant shall be satisfied at one time. When more than one writ of garnishment has been issued against earnings due the same defendant, they shall be satisfied in the order of service on the garnishee. No plaintiff may issue more than one writ of garnishment against the earnings of any individual defendant during the term of the lien created by any writ of garnishment previously issued and served by that plaintiff.

(2)(a) Any writ of garnishment served upon a garnishee while any previous writ is still in effect shall be answered by the garnishee with a statement that the garnishee has been served previously with one or more writs of garnishment against earnings due the defendant and specifying the date on which all such liens are expected to terminate.

(b) Upon the termination of garnishment, any other writ of garnishment that has been issued or that is issued subsequently against earnings due the defendant shall have priority in the order of service on the garnishee. The person who serves a writ of garnishment on a garnishee shall note the date and time of such service. [1989 c.876 §3]

29.410 [1973 c.797 §422; repealed by 1981 c.898 §53]

29.411 Form of writ issued by clerk of court. This section establishes a form for a writ of continuing garnishment described in ORS 29.401 to 29.415 and issued by the clerk of the court as described in ORS 29.137 and 29.138. A writ of continuing garnishment issued by the clerk of the court shall be in substantially the following form:

(This form is for garnishments issued under ORS 29.137, 29.138 and 29.401 to 29.415.)

THIS IS A WRIT OF CONTINUING GARNISHMENT

IN THE _____ COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____, Plaintiff,)
)
) WRIT OF
) CONTINUING
) GARNISHMENT
vs.) ISSUED BY THE
) COURT CLERK
) Case No. _____
_____, Defendant.)

=TOTAL Amount Required to Satisfy in Full this Claim or Judgment \$ _____

THE CLERK OF THE COURT HAS NOT CALCULATED ANY AMOUNTS ON THE WRIT AND IS NOT LIABLE FOR ERRORS MADE IN THE WRIT BY THE CREDITOR.

Witness the hand and seal of the court on this ____ day of _____, 19____, CLERK OF THE COURT By _____

State of Oregon)
) ss.
County of _____)

I certify that the foregoing is a true and correct copy of the original Writ of Garnishment in the above-entitled case.

CLERK OF THE COURT By _____

IN THE NAME OF THE STATE OF OREGON, TO: _____

You are now a Garnishee.

AS A GARNISHEE, YOU NEED TO KNOW THE FOLLOWING (The following information is to be filled in by the Creditor.):

On the ____ day of _____, 19____, (cross out one) plaintiff/defendant _____, named above and called "Creditor," obtained a judgment (a court order for the payment of money) against the (cross one out) plaintiff/defendant _____, named above and called "Debtor." The Debtor's Social Security Number or Employer Identification Number is _____ (insert if known). The following amount is necessary to satisfy the Creditor's claim or judgment:

- +Claim or Judgment Debt \$ _____
+Prejudgment Interest \$ _____
+Attorney Fees \$ _____
+Cost Bill \$ _____
+Post-Judgment Interest \$ _____
+Delivery Fee for this Writ \$ _____
+Issuance Fee for this Writ \$ _____
+Sheriff's Fees other than Delivery Fees \$ _____
+Other (Explain. Attach additional sheets if necessary. NOTE: INSERTING ITEMS AND AMOUNTS NOT LAWFULLY SUBJECT TO COLLECTION BY GARNISHMENT MAY RESULT IN LIABILITY FOR WRONGFUL EXECUTION.)

_____\$ _____
_____\$ _____
_____\$ _____
_____\$ _____

Total other from additional sheet (if used) \$ _____
+Past Writ Issuance Fees \$ _____
+Past Delivery Fees \$ _____
+Transcript and Filing Fees for other counties \$ _____
=Subtotal \$ _____
LESS Payments Made \$(_____)

I certify that I have read the Writ of Garnishment; and to the best of my knowledge, information and belief, there is good ground to support it and all sums included above are lawfully subject to collection by this garnishment.

Creditor/Creditor's Attorney (or Agent) _____
Address _____ Telephone Number _____
Oregon State Bar Number (if applicable) _____

GARNISHEE'S DUTIES

YOU MUST ANSWER THIS WRIT BY COMPLETING AND FILING A CERTIFICATE OF GARNISHEE WHETHER OR NOT YOU HOLD ANY OF THE DEBTOR'S WAGES OR OWE ANY WAGES TO THE DEBTOR.

IF YOU FAIL TO ANSWER THIS WRIT, OR IF YOU ANSWER IT UNTRUTHFULLY, OR IF YOU FAIL TO DELIVER THE WAGES WHEN REQUIRED TO DO SO, YOU MAY BE SUBJECT TO COURT PROCEEDINGS UNDER ORS 29.285 AND MAY BE HELD LIABLE TO THE CREDITOR FOR THE LESSER OF:

- (A) THE TOTAL AMOUNT CLAIMED IN THIS WRIT, OR
(B) THE AMOUNT YOU OWE THE DEBTOR.

NOTE: YOU MAY NOT LAWFULLY DISCHARGE THE DEBTOR FROM EMPLOYMENT AS A RESULT OF THIS GARNISHMENT.

As a Garnishee, you must take the following steps:

STEP 1. COMPLETE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving the writ, you must fill out and file the forms below called "Certificate of Garnishee" and, if you pay wages (see schedule form), the "Earnings Exemption Computation Schedule."

In filling out the form, you must describe any garnished wages you know you have in your possession. This writ garnishes only wages you owe to the Debtor as of the date you received this writ and wages that accrue on or before 90 days after the date this writ is issued, including wages owed but not yet due when you received this writ. You file these forms by following Step 2 below.

If you receive a subsequent Writ of Garnishment while another Writ of Garnishment is in effect, you should check the appropriate space in the Certificate of Garnishee and file the certificate as provided in Step 2.

If you have questions, you should contact an attorney. The clerk of the court cannot give you legal advice.

If the writ does not comply with Oregon law or if you cannot tell from the writ whether you owe any wages to the Debtor, the writ does not garnish anything, but you must fill out the certificate anyway and follow Step 2. Keep a copy for your records.

If you discover before you send your certificate under Step 2 that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330), you must describe in your certificate any garnished property or debts that you know that you have in your possession, and note on the certificate that a bankruptcy petition has been filed.

If the writ does comply with Oregon law and you can tell that you may owe wages to the Debtor but you are not sure what or how much, you must fill out the certificate anyway and explain why. You must then follow Step 2. When you find out whether or what you do owe the Debtor, you should amend the certificate, even if you find out you do not owe the Debtor anything. Follow Step 2 again and file the amended certificate.

After filing the certificate under Step 2, go on to Step 3 if you owe any wages to the Debtor.

STEP 2. FILE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving the writ, you must send all of the following (information to be filled in by Creditor):

The original certificate and schedule form to the clerk of the (cross one out) district/circuit court of _____ County at:
Street address _____
City _____ County _____
State _____ Zip Code _____

A copy of the certificate and schedule form to the Debtor at (last known address):
Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number (if known) _____

A copy of the certificate and schedule form to the Creditor at:

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____

STEP 3. DELIVER THE FUNDS.

Unless you have discovered that a bankruptcy petition has been filed by or on behalf of the Debtor and your certificate contains a statement to that effect, you must do the following after you file the certificate under Step 2 if you owe wages to the Debtor or will owe wages to the Debtor within 90 days after this writ is issued.

If you owe wages payable in money that are due now or will accrue within 90 days after the issuance of this writ, unless you receive a notice of claim of exemption or other direction from the court (a document or other notice from the clerk of the court telling you what to do with the money or informing you that the Debtor is claiming that all or some of the money cannot be garnished), when you send your certificate, at the end of each pay period within the 90-day period and at the end of the 90-day period, make your check or other draft payable to the Creditor and send the payment directly to the Creditor at the address shown in Step 2.

In making payments under this writ, you need to prorate any wages or periodic payments, so that you pay only the amount you owe the Debtor on the date you receive this writ, at the end of each pay period within the 90-day period and at the end of the 90-day period.

If you receive a notice of claim of exemption from the court or direction from the court to deliver the money to the court and have not yet forwarded the money, send or deliver the payment directly to the clerk of the court. You must send the payment promptly with the Certificate of Garnishee if it is now due; otherwise, send it at the end of each pay period within the 90-day period and at the end of the 90-day period and send the Certificate of Garnishee as required un-

der Step 2. If you make payment by check or other draft, make it payable to the court. Because you may be liable for money that does not reach the court, it is better not to send cash by mail.

EARNINGS EXEMPTION COMPUTATION SCHEDULE

The Garnishee must complete the following form and fill in the correct amounts only if the Garnishee is an employer of the Debtor under ORS 23.175.

- 1. Debtor's gross weekly "earnings" \$
2. Amounts required to be withheld by law (Federal and state withholding, social security, etc.)..... \$
3. Debtor's "disposable earnings" for week - Subtract line 2 from line 1..... \$
4. Minimum Exemption (a) For wages payable before June 30, 1992..... \$150 (b) For wages payable before June 30, 1993..... \$160 (c) For wages payable on or after July 1, 1993. \$170
5. Maximum Exemption - Enter 75 percent of line 3..... \$
6. Earnings exempt from garnishment - Line 4 or 5, whichever is greater..... \$
7. Nonexempt earnings - Subtract line 6 from line 3..... \$
8. Amounts withheld pursuant to a support order under support withholding process available under prior law or chapter 798, Oregon Laws 1993..... \$
9. Earnings subject to garnishment - Subtract line 8 from line 7..... \$

TO: The Clerk of the Court, Debtor and Creditor/Creditor's Attorney

(Following to be completed by Garnishee)

State of _____

County of _____

I hereby certify that at the time of delivery to me of the foregoing Writ of Garnishment on the ___ day of _____, 19___, I had in my possession, control or custody only the following wages due or to become due, belonging or owing to the Debtor named in said Writ of Garnishment (include due date if not yet due):

I have placed a check in front of all the following statements that apply (more than one may apply):

- I do not owe wages to the Debtor.
- The Writ of Garnishment does not comply on its face with Oregon garnishment law or I am unable to determine from the information in the writ whether I owe any wages to the Debtor. (Explain)

- I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor.
- The writ does comply with Oregon law and I am able to determine that I may owe wages to the Debtor, but I am not sure what or how much it might be. I will file an amended certificate when I find out. (Explain)

- I have been served with a previous Writ of Garnishment against the wages I owe or will owe to the Debtor. Under Oregon law, the previous garnishment has priority. It is expected to terminate on _____.
- I will owe wages to the Debtor, which are not now due but will become due within 90 days from the

(Case caption to be completed by Creditor) IN THE _____ COURT OF THE STATE OF OREGON FOR THE COUNTY OF _____

_____, Plaintiff,) CERTIFICATE OF) CONTINUING) GARNISHEE) Case No. _____) vs.))) Defendant.)

date of the issuance of the writ of continuing garnishment. I will forward the money when the debt or other obligation becomes due.

- I owe wages to the Debtor which are now due and I am forwarding the money owed or enough of it to satisfy the garnishment to the Creditor.
I have received a notice of claim of exemption or other direction from the clerk of court and am forwarding funds to the clerk of court.
Other (Explain)

vs.) ISSUED BY
) ATTORNEY
) Case No.
_____, Defendant.)

IN THE NAME OF THE STATE OF OREGON, TO:

You are now a Garnishee.

AS A GARNISHEE, YOU NEED TO KNOW THE FOLLOWING (The following information is to be filled in by the Creditor.):

On the ___ day of ___, 19___, (cross out one) plaintiff/defendant, named above and called "Creditor," obtained a judgment (a court order for the payment of money) against the (cross one out) plaintiff/defendant, named above and called "Debtor." The Debtor's Social Security Number or Employer Identification Number is ___ (insert if known). The following amount is necessary to satisfy the Creditor's judgment:

- +Judgment Debt \$
+Prejudgment Interest \$
+Attorney Fees \$
+Cost Bill \$
+Post-Judgment Interest \$
+Delivery Fee for this Writ \$
+Sheriff's Fees other than Delivery Fees \$
+Other (Explain. Attach additional sheets if necessary. NOTE: INSERTING ITEMS AND AMOUNTS NOT LAWFULLY SUBJECT TO COLLECTION BY GARNISHMENT MAY RESULT IN LIABILITY FOR WRONGFUL EXECUTION.) \$
\$
\$
\$

- Total other from additional sheet (if used) \$
+Past Writ Issuance Fees \$
+Past Delivery Fees \$
+Transcript and Filing Fees for other counties \$
=Subtotal \$
LESS Payments Made \$()
=TOTAL Amount Required to Satisfy in Full this Judgment \$

Dated ___, 19__

Name of Garnishee

Signature

Address

(Statutes affecting Garnishee responses include ORS 29.138, 29.142, 29.195, 29.235, 29.245, 29.255, 29.275, 29.285, 29.305 and 29.405.)

[1989 c.876 §4; 1991 c.67 §6; 1991 c.845 §7; 1993 c.18 §10; 1993 c.261 §7; 1993 c.798 §43]

Note: Legislative Counsel has substituted "chapter 798, Oregon Laws 1993," for the words "this 1993 Act" in section 43, chapter 798, Oregon Laws 1993, which amended 29.411. Specific ORS references have not been substituted, pursuant to 173.160. The range of sections for which substitutions would be required yields ORS references too numerous to be useful. These sections may be determined by referring to the 1993 Comparative Section Table located in Volume 15 of ORS.

Note: See second note under 29.145.

29.415 Form of writ issued by attorney. This section establishes a form for a writ of continuing garnishment described in ORS 29.401 to 29.415 and issued by an attorney as described in ORS 29.137 and 29.139. A writ of continuing garnishment issued by an attorney shall be in substantially the following form:

(This form is for continuing garnishments issued under ORS 29.137, 29.138 and 29.401 to 29.415.)

THIS IS A WRIT OF CONTINUING GARNISHMENT

IN THE _____ COURT

OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____, Plaintiff,) WRIT OF
) CONTINUING
) GARNISHMENT

THE CLERK OF THE COURT HAS NOT CALCULATED ANY AMOUNTS ON THE WRIT AND IS NOT LIABLE FOR ERRORS MADE IN THE WRIT BY THE CREDITOR.

I certify that I have read the Writ of Garnishment; and to the best of my knowledge, information and belief, there is good ground to support it and all sums included

above are lawfully subject to collection by this garnishment.

Creditor's Attorney

Address

Telephone Number

Oregon State Bar Number

Date of Issuance

GARNISHEE'S DUTIES

YOU MUST ANSWER THIS WRIT BY COMPLETING AND FILING A CERTIFICATE OF GARNISHEE WHETHER OR NOT YOU OWE ANY WAGES TO THE DEBTOR.

IF YOU FAIL TO ANSWER THIS WRIT, OR IF YOU ANSWER IT UNTRUTHFULLY, OR IF YOU FAIL TO DELIVER THE WAGES WHEN REQUIRED TO DO SO, YOU MAY BE SUBJECT TO COURT PROCEEDINGS UNDER ORS 29.285 AND MAY BE HELD LIABLE TO THE CREDITOR FOR THE LESSER OF:

(A) THE TOTAL AMOUNT CLAIMED IN THIS WRIT, OR

(B) THE AMOUNT YOU OWE THE DEBTOR.

NOTE: YOU MAY NOT LAWFULLY DISCHARGE THE DEBTOR FROM EMPLOYMENT AS A RESULT OF THIS GARNISHMENT.

As Garnishee, you must take the following steps:

STEP 1. COMPLETE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving the writ, you must fill out and file the forms below called "Certificate of Garnishee" and, if you pay wages (see schedule form), the "Earnings Exemption Computation Schedule." In filling out the form, you must describe any garnished wages you know you have in your possession. This writ garnishes only wages you owe to the Debtor as of the date you received this writ, including debts that existed but were not yet due when you received this writ and wages that accrue on or before 90 days after the date this writ is issued. You file these forms by following Step 2 below.

If you receive a subsequent Writ of Garnishment while another Writ of Garnishment is in effect, you should check the appropriate space in the Certificate of Garnishee and file the certificate as provided in Step 2.

If you have questions, you should contact an attorney. The clerk of the court cannot give you legal advice.

If the writ does not comply with Oregon law or if you cannot tell from the writ whether you owe any wages to the Debtor, the writ does not garnish anything, but you must fill out the certificate anyway and follow Step 2. Keep a copy for your records.

If you discover before you send your certificate under Step 2 that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor under section 301, 302 or 303 of the United States Bankruptcy Code (11 U.S.C. §§ 101 to 1330), you must describe in your certificate any garnished property or debts that you know that you have in your possession, and note on the certificate that a bankruptcy petition has been filed.

If the writ does comply with Oregon law and you can tell that you may owe wages to the Debtor but you are not sure what or how much, you must fill out the certificate anyway and explain why. You must then follow Step 2. When you find out whether or what you do owe the Debtor, you should amend the certificate, even if you find out you do not owe the Debtor anything. Follow Step 2 again and file the amended certificate.

After filing the certificate under Step 2, go on to Step 3 if you owe any wages to the Debtor.

STEP 2. FILE THE CERTIFICATE AND SCHEDULE.

Within five days of receiving this writ, you must send all of the following (information to be filled in by Creditor):

A copy of the certificate and schedule form to the Creditor at:

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number _____

The original certificate and schedule form to the clerk of the (cross one out) district/circuit court of _____
County at:

Street address _____
City _____ County _____
State _____ Zip Code _____

A copy of the certificate and schedule form to the Debtor at (last known address):

Name _____
Street address _____
City _____ State _____
Zip Code _____
Telephone number (if known) _____

STEP 3. DELIVER THE FUNDS.

Unless you have discovered that a bankruptcy petition has been filed by or on behalf of the Debtor and your certificate contains a statement to that effect, you must do the following after you file the certificate under

Step 2 if you owe wages to the Debtor or will owe wages to the Debtor within 90 days after this writ is issued. If you owe wages payable in money that are due now or will accrue within 90 days after this writ is issued, unless you receive a notice of claim of exemption (a document or other notice from the clerk of the court informing you that the Debtor is claiming that all or some of the money cannot be garnished), when you send your certificate, at the end of each pay period within the 90-day period and at the end of the 90-day period, make your check or other draft payable to the Creditor and send the payment directly to the Creditor at the address shown in Step 2.

In making payments under this writ, you need to prorate any wages or periodic payments, so that you pay only the amount you owe the Debtor on the date you receive this writ, at the end of each pay period within the 90-day period and at the end of the 90-day period.

If you receive a notice of claim of exemption from the court and have not yet forwarded the money, send or deliver the payment directly to the clerk of the court. You must send the payment promptly with the Certificate of Garnishee if it is now due; otherwise, send it at the end of each pay period within the 90-day period and at the end of the 90-day period and send the Certificate of Garnishee as required under Step 2. If you make payment by check or other draft, make it payable to the court. Because you may be liable for money that does not reach the court, it is better not to send cash by mail.

- 5. Maximum Exemption - Enter 75 percent of line 3..... \$
6. Earnings exempt from garnishment - Line 4 or 5, whichever is greater..... \$
7. Nonexempt earnings - Subtract line 6 from line 3..... \$
8. Amounts withheld pursuant to a support order under support withholding process available under prior law or chapter 798, Oregon Laws 1993..... \$
9. Earnings subject to garnishment - Subtract line 8 from line 7..... \$

(Case caption to be completed by Creditor) IN THE COURT OF THE STATE OF OREGON FOR THE COUNTY OF

Plaintiff, vs. Defendant. CERTIFICATE OF CONTINUING GARNISHEE Case No.

TO: The Clerk of Court, Creditor's Attorney and Debtor

(Following to be completed by Garnishee) State of County of

I hereby certify that at the time of delivery to me of the foregoing Writ of Garnishment on the day of 19, I had in my possession, control or custody only the following wages due or to become due, belonging or owing to the Debtor named in the Writ of Garnishment (include due date if not yet due):

Blank lines for providing wage details.

I have placed a check in front of all the following statements that apply (more than one may apply):

- I do not owe wages to the Debtor.
The Writ of Garnishment does not comply on its face with Oregon garnishment law or I am unable to determine from the information in the writ whether I owe wages to the Debtor. (Explain)

EARNINGS EXEMPTION COMPUTATION SCHEDULE

The Garnishee must complete the following form and fill in the correct amounts only if the Garnishee is an employer of the Debtor under ORS 23.175.

- 1. Debtor's gross weekly "earnings"..... \$
2. Amounts required to be withheld by law (Federal and state withholding, social security, etc.)..... \$
3. Debtor's "disposable earnings" for week - Subtract line 2 from line 1..... \$
4. Minimum Exemption (a) For wages payable before June 30, 1992..... \$150 (b) For wages payable before June 30, 1993..... \$160 (c) For wages payable on or after July 1, 1993. \$170

29.245, 29.255, 29.275, 29.285, 29.305 and 29.405.)

[1989 c.876 §5; 1991 c.845 §8; 1993 c.18 §11; 1993 c.261 §8; 1993 c.798 §44]

Note: Legislative Counsel has substituted "chapter 798, Oregon Laws 1993," for the words "this 1993 Act" in section 44, chapter 798, Oregon Laws 1993, which amended 29.415. Specific ORS references have not been substituted, pursuant to 173.160. The range of sections for which substitutions would be required yields ORS references too numerous to be useful. These sections may be determined by referring to the 1993 Comparative Section Table located in Volume 15 of ORS.

Note: See second note under 29.145.

29.510 [Repealed by 1979 c.284 §199]

29.520 [Repealed by 1981 c.898 §53]

29.530 [Repealed by 1981 c.898 §53]

29.540 [Repealed by 1981 c.898 §53]

29.550 [Repealed by 1981 c.898 §53]

29.560 [Amended by 1977 c.415 §5; repealed by 1981 c.898 §53]

29.570 [Repealed by 1981 c.898 §53]

29.580 [Repealed by 1981 c.898 §53]

29.590 [Repealed by 1981 c.898 §53]

29.600 [Repealed by 1981 c.898 §53]

29.610 [Repealed by 1981 c.898 §53]

29.620 [Amended by 1977 c.415 §6, repealed by 1981 c.898 §53]

29.630 [Repealed by 1981 c.898 §53]

29.640 [Repealed by 1981 c.898 §53]

29.650 [Repealed by 1981 c.898 §53]

29.660 [Repealed by 1981 c.898 §53]

29.670 [Repealed by 1981 c.898 §53]

29.680 [Repealed by 1981 c.898 §53]

29.690 [Repealed by 1981 c.898 §53]

29.700 [Repealed by 1981 c.898 §53]

29.710 [Repealed by 1981 c.898 §53]

29.720 [Repealed by 1981 c.898 §53]

29.730 [Repealed by 1981 c.898 §53]

29.740 [Repealed by 1981 c.898 §53]

29.810 [Amended by 1977 c.415 §1; renumbered 29.080]

29.820 [Repealed by 1977 c.415 §7]

29.830 [Amended by 1977 c.415 §2; renumbered 29.085]

29.840 [Repealed by 1977 c.415 §7]

29.850 [Repealed by 1977 c.415 §7]

29.860 [Repealed by 1977 c.415 §7]

29.870 [Repealed by 1977 c.415 §7]

29.880 [Repealed by 1977 c.415 §7]

29.890 [Renumbered 29.087]

29.900 [Amended by 1977 c.415 §3; renumbered 29.090]

29.910 [Amended by 1977 c.415 §4; renumbered 29.095]

- I have discovered that a voluntary or involuntary bankruptcy petition has been filed by or on behalf of the Debtor.
- The writ does comply with Oregon law and I am able to determine that I may owe wages to the Debtor, but I am not sure what or how much it might be. I will file an amended certificate when I find out. (Explain)

- I have been served with a previous Writ of Garnishment against the wages I owe or will owe to the Debtor. Under Oregon law, the previous garnishment has priority. It is expected to terminate on _____.
- I will owe wages to the Debtor, which are not now due but will become due within 90 days from the date of the issuance of the writ of continuing garnishment. I will forward the money when the debt or other obligation becomes due.
- I owe wages to the Debtor which are now due and I am forwarding the money owed or enough of it to satisfy the garnishment to the Creditor.
- I have received a notice of claim of exemption and am forwarding funds to the clerk of court.
- Other (Explain)

Dated _____, 19____

Name of Garnishee _____

Signature _____

Address _____

(Statutes affecting Garnishee responses include ORS 29.139, 29.142, 29.195, 29.235,