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**OREGON LAW COMMISSION**

**Report to the 2007 Legislative Assembly**

**Judgments and Judicial Sales Work Group: Money Award and Separate Record  
Senate Bill 501**

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**From the Offices of the Executive Director  
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## I. Introductory Summary

For the 2007 Legislative Session, the Oregon Law Commission’s Judgments and Judicial Sales Work Group proposes a bill (SB 501) that clarifies terminology dealing with “money award” and “separate record” as those terms are used in ORS Chapter 18. The term “separate record” is replaced with “judgment lien record” throughout ORS Chapter 18. SB 501 also makes conforming changes to other statutory chapters substituting “judgment lien record” for references to a “separate record” found in those provisions.

## II. History of the Project

In 2005, the Legislative Assembly dealt with and approved large and significant bills involving judgments/garnishments (HB 2359) and judicial sales (SB 920). The Judgments bill itself was the continuation of a major overhaul of Oregon judgments law approved by the 2003 Legislative Assembly, culminating in HB 2646. At its meeting on March 31, 2006, the Program Committee of the Oregon Law Commission acknowledged that cross-referencing problems and unintended consequences were likely to come up involving this legislation, and that the Work Group should continue for the purpose of dealing with “clean up” and “follow-up” issues. The Law Commission accepted that recommendation at its meeting on July 19, 2006, authorizing a reorganized work group to meet and consider such issues.

Law Commissioner John DiLorenzo served as chair of the Judgments and Judicial Sales Work Group.<sup>1</sup> The work group met five times in the fall and early winter of 2006/2007. The Work Group decided to divide its task into manageable components. SB 501, the legislative proposal addressed here, advances the Work Group’s recommendations with regard to clarifying the amounts to be included in the money award portion of a judgment and creating a new name, “judicial lien record,” for the currently unnamed “separate record” mentioned throughout ORS Chapter 18<sup>2</sup>.

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<sup>1</sup> The Work Group included the following members:

Cleve Abbe	Oregon Land Title Association
Gary Blackledge	Greene & Markley PC
Doug Bray	Oregon Judicial Department
Mark Comstock	Garrett, Hemann, Robertson, Jennings, Comstock & Trethewey PC
Nori Cross	Oregon Judicial Department
John Davenport	Davenport & Hasson LLP
Brian DeMarco	Oregon Judicial Department
David Hercher	Miller Nash LLP
Randy Jordan	Oregon Department of Justice
Tim Leader	Washington County Sheriff’s Office
Jim Markee	Markee & Associates
Jim Nass	Appellate Courts Staff Attorney
Dennis Paterson	Davis Wright Tremaine LLP
Marshall Ross	Multnomah County Sheriff’s Office

Jerry Watson, Special Counsel to the Oregon Law Commission, provided staff and research assistance  
Dave Heynderickx, Special Counsel to the Legislative Counsel, provided drafting assistance.

<sup>2</sup> Remaining issues have been brought to the Law Commission in separate proposed legislation.

### **III. The Problems that This Proposal Addresses**

This proposal addresses two requests referred to the Workgroup by the Oregon Judicial Department:

1. Distinguish the Money Award section of the judgment (ORS 18.042(2)(e) – (h)) from the Money Award made on a request for relief in the pleadings in the action (ORS 18.042(2)(d)).
2. Name the unnamed “separate record,” known as the “docket” before 2003 House Bill 2646 (2003).

#### Money Award.

ORS 18.075(3) requires that the court administrator enter the “money award in a judgment in a “separate record” In 18.042(2)(d), the “money award” is only one component of the financial obligation that the judgment may impose on the judgment debtor. The other obligations are set out in 18.042(2)(e) through (h) and may include monetary amounts to be entered in the separate record as a part of the court’s “money award” in the case and subject to lien status. Entering only 18.042(2)(d) amounts understates the court’s total award to the judgment creditor.

To eliminate confusion as to which amount court clerks should enter in the separate record, the Judicial Department proposed renaming one of the amounts called “money award.” The Workgroup appointed a subcommittee to review and recommend action to the Workgroup.

The subcommittee proposed amending ORS 18.042(2)(d) to describe the amount awarded and not call it a “money award.” It debated and rejected using the term “principal” for that amount because “principal” has other meanings. The subcommittee proposed the language in Section 1 of the bill replacing reference to “money award” with “the amount of money awarded in the judgment, exclusive of amounts required to be included in the separate section under paragraphs (e) to (g) of this subsection.” The Workgroup agreed.

#### Separate Record.

The 2003 revisions to the law of judgments discontinued the term “docket” to describe the court record where the clerk of court enters money judgments to create judgment liens. The 2003 revisions required the clerk to enter those amounts in a “separate record” but did not name the separate record. The Judicial Department proposed giving the separate record a formal name that identified the record as a circuit court record that creates a judgment lien.

The Workgroup reviewed several options and agreed that “judgment lien record” sufficiently described the record and distinguished it from other court records and other lien records, because circuit courts are the only Oregon courts that can create judgment liens. Sections 2 – 14 of SB 501 amend ORS 18.075 to replace the term “separate record” with “judgment lien record and conform language in ORS chapters 18, 46, 52, 87, and 416.

#### **IV. Objective of the Proposal**

The purpose of these proposals is to eliminate confusion caused by the current statutory references to “money award” and “separate record” in ORS Chapter 18.

#### **V. The Proposal**

##### Section 1.

Section 1 of the bill amends ORS 18.042 by replacing a single reference to “money award” at paragraph (d) of subsection 2 with “the amount of money awarded in the judgment, exclusive of amounts required to be included in the separate section under paragraphs (e) to (h) of this subsection.”

##### Sections 2-14.

Sections 2 – 14 of SB 501 amend ORS 18.075 to replace the term “separate record” with “judgment lien record” Sections 3-13 make conforming changes throughout Chapter 18, and to provisions using the term “separate record” in ORS chapters 46, 52, 87, and 416.

##### Section 15.

Section 15 contains LC form and style changes.

#### **VI. Conclusion**

The proposed bill amends ORS 18.042 to clarify use of the term “money award.” It also substitutes the term “judgment lien record” for the existing term “separate record” as that latter term is used throughout ORS Chapter 18 and makes conforming changes in other statutory chapters where the term “separate record” is used.