SUMMARY OF 2009 LEGISLATION IMPACTING
CIRCUIT COURT CIVIL FEE SCHEDULE
EFFECTIVE OCTOBER 1, 2009

Chapter 484, Oregon Laws 2009 (SB 270): Collection fee waivers; motion fee payment; sheriff fee waivers and deferrals. (Effective 6/24/09)

Section 3 provides authority for the Chief Justice to authorize courts to waive or suspend the collection fees required to be added to a judgment under ORS 1.102. Section 4 specifies that a clerk cannot file a motion or response subject to the ORS 21.125 motion fee until the fee is paid. Section 5 amends ORS 21.682 to clarify that a court may waive or defer sheriff's service fees payable to the court.

Chapter 595, Oregon Laws 2009 (HB 2009): DUII fee paid to Oregon Health Authority. (Effective 6/26/09)

Sections 1142 and 1143 provide that a portion of the DUII fee be distributed to the "Oregon Health Authority" instead of the Department of Human Services. Former endnote #45 was revised.

Chapter 638, Oregon Laws 2009 (SB 241): Certain foreclosures subject to Residential FED Filing Fee. (Effective 6/30/09)

Section 2(8) amends ORS 105.130 to specify that actions brought under ORS 105.110 by a person entitled to possession of premises on the basis of circumstances described in ORS 105.115(1)(d), (e), or (f) are subject to the residential FED filing fee; previously these actions were subject to the higher commercial FED filing fee. Specifically, this applies to trust deed foreclosures under ORS 86.755, land sale contract forfeitures under ORS 93.930(2)(c), execution sale purchasers entitled to possession under ORS 18.846, persons entitled to possession by a judgment of strict foreclosure of a recorded contract for transfer or conveyance of an interest in real property, and certain situations when a transferee is named in a deed given in lieu of foreclosure.

<u>Chapter 659, Oregon Laws 2009 (HB 2287)</u>: New civil fees; temporary surcharges revised and extended to 6/30/11. (Effective 6/30/09)

<u>Temporary surcharge changes</u>: §3, 4

Section 3 extended the 2007 temporary surcharges to September 30, 2009. Section 4 further extended most of the 2007 temporary surcharges to June 30, 2011, with increases to the surcharge amounts on certain change of name, trial, hearing, small claims and FED base fees, and imposition of new temporary surcharges on writs of execution and writs of garnishment. All surcharges imposed between October 1, 2009, through June 30, 2011, must be deposited in the Judicial System Surcharge Account (JSSA).

(a) Increased amounts:

Change of name. §4(3)(b). Amends ORS 21.114(1) to increase the surcharge from $2 to $61 for a party filing an application and from $1 to $61 for an objecting party.

FED (residential evictions). §4(16)). Amends ORS 105.130(2) to increase the surcharge from $3 to $12 to file a residential FED complaint.

Hearing fees. §4(6). Amends ORS 21.275(3) to increase the surcharge from $2 to $12 for a hearing of not more than 3 hours, and from $4 to $33 for a hearing of more than 3 hours.

Small claims. §4(15). Amends ORS 46.570(1) for small claims complaints $1,500 or under to increase the surcharge for a defendant demanding a hearing from $1 to $24, and for small claims complaints in excess of $1,500, to increase the surcharge for a defendant demanding a hearing from $2 to $50.

Trial fees. §4(5)(a). Amends ORS 21.270(2) to increase the surcharge from $4 to $33 for a trial without a jury. Amends ORS 21.270(3) to increase the surcharge from $10 to $32 for a trial by a jury of more than 6 persons, and from $6 to $40 for trial by a jury of 6 persons.

(b) New temporary surcharges:

Writ of execution and writ of garnishment. §4(9). Amends ORS 21.325(4) to create a new $6 surcharge to issue writs of execution or writs of garnishment.

(c) Increased base fees:

Various sections of the bill temporarily increase base fees for pleadings filed between October 1, 2009, and June 30, 2011. All amounts collected must be deposited in the Judicial System Surcharge Account (JSSA).

Civil plaintiff and defendant fees. §14. Amends ORS 21.110(1) to increase from $107 to $117 the plaintiff and defendant filing fees. Amends ORS 21.110(2) to increase from $68 to $78 the plaintiff and defendant filing fees for proceedings described in subsection (2). The $10 increase must be deposited in the Judicial System Surcharge Account (JSSA).

Collection fee. §34. Amends ORS 1.202 to increase from $100 to $200 the maximum amount chargeable under ORS 1.202 when a court judgment payment plan is established. For judgments entered on or after October 1, 2009, and before July 1, 2011, ORS 1.202(1) fees of $100 or less are deposited in the General Fund, while fees in excess of $100 must be deposited in the Judicial System Surcharge Account (JSSA).

(d) New temporary fees:

Creates new temporary fees for pleadings filed between October 1, 2009, and June 30, 2011. All fee amounts collected must be deposited in the Judicial System Surcharge Account (JSSA).

Additional party fee. §14(1)(b). Amends ORS 21.110 to temporarily create a fee of $117 for each additional plaintiff, appellant, or moving party named in a pleading, whether appearing jointly or separately, and for each defendant or respondent filing an appearance, whether appearing jointly or separately, when the pleading is filed between October 1, 2009, through June 30, 2011. This is a change from the past when plaintiffs or defendants appearing <u>jointly</u> paid only one filing fee. The $117 fee must be deposited in the Judicial System Surcharge Account (JSSA). Note that the normal civil "add-on" fees also apply (law library, legal aid, dispute resolution) and that <u>the additional party fee only applies to proceedings subject to the ORS 21.110(1) fee</u>. Please be aware that the base fee fund splits are different, depending on timing. For the <u>first</u> appearing plaintiff or <u>first</u> appearing defendant, $107 is distributed to the General Fund and $10 is distributed to JSSA. For each additional party, $117 is distributed to JSSA and $0 is distributed to the General Fund.

Bench probation fee. §21(7). Amends ORS 137.540 to temporarily establish a $100 bench probation fee for court orders requiring probation to be supervised by the court entered between October 1, 2009, through June 30, 2011. Amounts collected must be deposited in the Judicial System Surcharge Account (JSSA). None of the usual civil "add-on" fees apply because this is a criminal, not "civil," proceeding. The fee is included in the "civil" fee schedule in an abundance of caution to make sure it is not overlooked. Because it is imposed at a later time and because the statute specifies it is in the nature of a criminal fine, the civil fee schedule will <u>not</u> include the $25 assessment the court must impose against a defendant if the court determines the defendant has violated a term of probation. §21(11).

Diversion program administration fee. §26. Creates a temporary $100 program administration fee for filing a petition for DUII or marijuana diversion between October 1, 2009, through June 30, 2011. None of the usual civil "add-on" fees apply

because this is a criminal, not "civil," proceeding. The fee will be included in the "civil" fee schedule in an abundance of caution to make sure it is not overlooked.

Ex parte order or judgment fees. §38. Creates a temporary $10 fee for filing an ex parte order or judgment for civil proceedings subject to a fee under ORS 21.110, 21.111, 21.114, or 21.310 when the ex parte order or judgment is filed between October 1, 2009, through June 30, 2011.

Expunction fee. §27. Temporarily establishes a $250 fee for filing an expunction application under ORS 137.225(1) between October 1, 2009, through June 30, 2011. None of the usual civil "add-on" fees apply because this is a criminal, not "civil," proceeding. The fee will be included in the "civil" fee schedule to make sure it is not overlooked.

Probate accounting fee. §25. Creates temporary fees for annual or final probate or conservatorship accountings filed between October 1, 2009, through June 30, 2011, based on the estate amount as follows:

Estate amount not more than $500,000 — $100
Estate amount between $500,000 and $1 million — $200
Estate amount more than $1 million — $300

Recovery of money or damages actions. §14(3). Amends ORS 21.110 to create a schedule of new fees in actions for recovery of money or damages filed between October 1, 2009, through June 30, 2011, based on the amount claimed as follows:

Amount claimed between $50,000 and $150,000 — $225
Amount claimed over $150,000 and less than $500,000 — $275
Amount claimed $500,000 or more and less than $1 million — $325
Amount claimed $1 million or more — $375

Settlement Conference fee. §32. Creates a temporary $50 fee for each party participating in a settlement conference before a judge if the proceeding is subject to a fee under ORS 21.110, 21.111, 21.114, or 21.310 and the settlement conference is conducted on or after October 1, 2009, and before July 1, 2011.

Third-party complaint or answer fee. §13. Temporarily establishes a fee for the filing of a third-party plaintiff or third-party defendant appearance between October 1, 2009, through June 30, 2011.

<u>Chapter 885, Oregon Laws 2009 (HB 3199)</u>: OJIN use fees; Chief Justice exemptions for additional party fee and ex parte or judgment fee.

Section 37a authorizes the Chief Justice to establish fees for the use of the Oregon Judicial Information Network. Sections 37b and 37e authorize the Chief Justice by order to establish exemptions from the circuit court and appellate court additional party fee if exemptions are needed for the equitable imposition of the fees. Section 37h authorizes the Chief Justice by order to establish exemptions from the ex parte or judgment fee if exemptions are needed for equitable imposition of the fee.

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