EXECUTIVE ORDER NO. 20-18

PROTECTING CARES ACT RECOVERY REBATE PAYMENTS FROM GARNISHMENTS, SO THOSE FUNDS CAN BE USED FOR ESSENTIAL NEEDS

On February 28, 2020, I appointed the State of Oregon's Coronavirus Response Team.

On February 29, 2020, the Department of Human Services issued strict guidelines, restricting visitation at congregated care facilities, including nursing homes.

On March 2, 2020, the State of Oregon Emergency Coordination Center was activated.

On March 8, 2020, I declared an emergency under ORS 401.165 *et seq*. due to the public health threat posed by the novel infectious coronavirus (COVID-19).

On March 12, 2020, I prohibited gatherings of 250 or more people, and announced a statewide closure of Oregon K-12 schools from March 16, 2020, through March 31, 2020.

On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency.

On March 17, 2020, I prohibited gatherings of 25 or more people, banned on-site consumption of food and drink at food establishments statewide, and extended school closures until April 28, 2020. I also encouraged all businesses not subject to the prohibitions to implement social distancing protocols.

On March 18, 2020, I suspended in-person instructional activities at higher education institutions through April 28, 2020.

On March 22, 2020, I imposed a temporary moratorium on residential evictions for nonpayment, prohibiting law enforcement from serving, delivering, or acting on any notice, order or writ of termination of tenancy, relating to residential evictions for nonpayment.

On March 23, 2020, I ordered Oregonians to "Stay Home, Save Lives," directing individuals to stay home to the greatest extent possible, ordering the closure of specified retail businesses, requiring social distancing measures for other public and private facilities, and imposing requirements for outdoor areas and licensed childcare facilities.

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On April 1, 2020, I imposed a temporary moratorium on the termination of residential and nonresidential rental agreements and evictions for nonpayment, to ensure that individuals can stay at home to the greatest extent possible, and to ensure the provision of necessary goods and services during this emergency.

On April 8, 2020, I announced that school closures and the suspension of in-person instructional activities at higher education institutions would be extended through the end of the current academic term and school year.

COVID-19 may cause respiratory disease leading to serious illness or death. The World Health Organization considers COVID-19 to be a global pandemic. COVID-19 spreads person-to-person through coughing, sneezing, and close personal contact, including touching a surface with the virus on it and then touching your mouth, nose, or eyes.

State and local public health officials advise that the virus is circulating in the community and expect the number of cases to increase. The United States Centers for Disease Control and Prevention (CDC) reports that COVID-19 is most contagious when the individual is most symptomatic, but may also spread before symptoms appear. CDC recommends measures to limit spread of the disease in the community, including limitations on events and gatherings.

The number of COVID-19 cases continues to rise in Oregon. On March 8, 2020, at the time I declared an emergency, there were 14 presumptive or confirmed cases in Oregon. As of today, there are at least 1,785 confirmed cases and 70 deaths.

In a short time, COVID-19 has spread rapidly. To slow the spread of COVID-19 in Oregon, and to protect the health and lives of Oregonians, particularly those at highest risk, I find that immediate implementation of additional measures is necessary to protect the health, safety, and the financial stability of all Oregonians.

The COVID-19 emergency has resulted in the loss of employment and economic suffering for many Oregonians.

Eligible Oregonians will soon be receiving CARES Act Recovery Rebate payments. These payments are needed by vulnerable Oregonians to help pay for their housing, food, medical and other essential needs. This Executive Order is necessary to ensure that these payments may be used to pay for their current needs.

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NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED THAT:

Pursuant to ORS 433.441, ORS 401.168, ORS 401.175, ORS 401.188, and ORS 401.192, I am issuing the following directives, which are intended to protect the CARES Act Recovery Rebate payments to individuals from most garnishments. This is being done so that Oregonians may use these payments to pay for their housing, food, medical and other essential needs during the COVID-19 emergency period.

1. Definitions.

   a. "COVID-19 emergency period" means the period during which the COVID-19 state of emergency declared by Executive Order 20-03 is in effect, including any extensions of that state of emergency.

   b. "Financial institution" has the same meaning as defined in ORS 18.600(7).

   c. "CARES Act" refers to the "Coronavirus Aid, Relief, and Economic Security Act" (H.R. 748) passed by the United States Congress and signed bv the President of the United States on March 27, 2020.

   d. "Recovery Rebates" means the payments made to eligible individuals by the United States Government in an amount not to exceed $1,200 per individual (or $2,400 in the case of individuals filing a joint return), plus $500 per qualifying child, pursuant to Sec. 2201(a) of the CARES Act.

2. Garnishment of CARES Act Recovery Rebates Prohibited. During the COVID-19 emergency period:

   a. All CARES Act Recovery Rebates to individuals shall be exempt from "garnishment" as that term is described in ORS 18.602 and used in ORS Chapter 18, unless otherwise provided by this Executive Order or guidance issued pursuant to this Executive Order.

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b. All CARES Act Recovery Rebates exempt from garnishment pursuant to this Executive Order and related guidance shall remain exempt when deposited into an account in a financial institution, in the same manner as other funds described in ORS 18.348(3).

c. Upon receipt of a Notice or Writ of Garnishment, financial institutions shall treat all CARES Act Recovery Rebates in the same manner as federal benefit payments for purposes of complying with their obligations under ORS 18.784, unless the garnishment contains the following statement: "This Garnishment Has Been Issued to Collect a Criminal Money Judgment that Awards Restitution or a Civil Judgment Based on a Criminal Offense." When responding to a garnishment containing this statement, the financial institution shall treat any Recovery Rebate as being subject to garnishment.

3. Guidance. The Attorney General and the Oregon Department of Justice shall provide further guidance regarding the directives set forth in this Executive Order, as necessary.

4. Exceptions. Notwithstanding paragraph 2 of this Executive Order:

a. CARES Act Recovery Rebates shall remain subject to any garnishment issued to collect: (a) a judgment in a criminal action that requires the defendant to pay restitution; or (b) a civil judgment against someone who has been convicted of a criminal offense, provided that the civil judgment is based upon the same underlying facts as the conviction.

b. Garnishments issued pursuant to paragraph 4(a) of this Executive Order shall contain the following statement: "This Garnishment Has Been Issued to Collect a Criminal Money Judgment that Awards Restitution or a Civil Judgment Based on a Criminal Offense."

c. In addition to the judgments set forth in paragraph 4(a) of this Executive Order, the Attorney General may specify other judgments that may be collected by garnishment of CARES Act Recovery Rebates, through guidance issued pursuant to paragraph 3 of this Executive Order.

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This Executive Order is issued under the authority conferred to the Governor by ORS 401.165 to 401.236. Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall have the full force and effect of law, and any existing laws, ordinances, rules and orders shall be inoperative to the extent they are inconsistent with this exercise of the Governor's emergency powers.

This Executive Order is effective immediately, and remains in effect until terminated by the Governor.

Done at Salem, Oregon, this 17th day of April, 2020.

Kate Brown

Kate Brown
GOVERNOR

ATTEST:

Bev Clarno

Bev Clarno
SECRETARY OF STATE

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