
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 788 Session of
2001

INTRODUCED BY DENT, PICCOLA, MOWERY AND MADIGAN, APRIL 9, 2001

REFERRED TO JUDICIARY, APRIL 9, 2001

AN ACT

1 Authorizing the attachment of wages by judgment creditors.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Judgment
6 Creditor Garnishment Authorization Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Attachment." Includes a certified copy of a judgment by a
12 court ordering payment of a sum by the judgment debtor to the
13 judgment creditor and of an order of attachment of wages or
14 order of execution on wages, entered by a court and ordering the
15 payment of a sum by the judgment debtor to the judgment
16 creditor. An attachment served upon an employer under this act
17 shall be an original or a copy certified to be a true and

1 correct copy by the clerk or prothonotary of the court or
2 jurisdiction rendering such judgment or order of attachment or
3 execution. If the judgment was rendered in a state or foreign
4 jurisdiction other than the Commonwealth, it shall be given
5 status as an attachment under this act if it has been registered
6 or recorded with a court in this Commonwealth in accordance with
7 applicable law.

8 "Employee." Includes an employee, whether a resident or
9 nonresident of this Commonwealth.

10 "Wages." The net monetary remuneration paid to an employee,
11 which consists of the employee's gross wages minus:

- 12 (1) Federal, State and local income taxes;
- 13 (2) payments under Chapter 21 of the Internal Revenue
14 Code of 1986 (Public Law 99-514, 26 U.S.C. § 3101 et seq.);
- 15 (3) nonvoluntary retirement payments;
- 16 (4) union dues; and
- 17 (5) health insurance premiums.

18 Section 3. Nature of attachment.

19 (a) Continuing lien.--If an attachment is levied against the
20 wages of a judgment debtor, the attachment shall constitute a
21 continuing lien on all attachable wages which are payable at the
22 time the attachment is served or which become payable later,
23 until the judgment, interest and costs, as set forth in the
24 attachment, are satisfied.

25 (b) Waiver.--A waiver of the limitations set forth in
26 section 5, whether given orally or in writing, is void.

27 (c) Notice to debtor.--A judgment debtor must be given
28 advance notice prior to any attachment of income under this act.
29 The notice must specify the percentage of wages to be withheld,
30 the application of the order of attachment, how and when the

1 order may be contested and the grounds upon which the order may
2 be contested. The notice must be served upon the judgment debtor
3 in person or by first class, certified mail, which requires a
4 receipt to be signed by the addressee. No attachment shall
5 constitute a lien or take effect until notice has been provided
6 to the judgment debtor under this subsection.

7 (d) Notice to employer.--The judgment creditor shall cause
8 notice of attachment to be delivered to the employer owing wages
9 to the judgment debtor by delivery of an order of execution,
10 certified copy of judgment or order of attachment for
11 collection; and the lien established under subsection (a) shall
12 attach upon delivery of such notice.

13 (e) Certification.--An attachment served on an employer
14 under this act must be an original or a copy certified by the
15 prothonotary of the court which issued it to be correct.

16 (f) Foreign attachments.--If an attachment of another
17 jurisdiction is registered or recorded with a court in this
18 Commonwealth, it shall be given status as an attachment under
19 this act.

20 Section 4. Limitations on wages subject to attachment.

21 (a) Amount of wages exempt.--The amount of the judgment
22 debtor's wages which is exempt from attachment is the greater
23 of:

24 (1) 45 times the hourly Federal minimum wage in effect
25 during the period of calculation;

26 (2) 80% of the judgment debtor's wages; or

27 (3) \$400 per week.

28 (b) Calculation per pay period.--The amount subject to
29 attachment shall be calculated per pay period.

30 Section 5. Duties of employer.

1 (a) Withhold and remit.--While the attachment remains a
2 lien, the employer who is subject to a garnishment shall
3 withhold the attachable wages payable to a judgment debtor and
4 shall remit the amount withheld to the judgment creditor or a
5 legal representative within 15 days from the close of the last
6 pay period in each month. The employer shall be entitled to
7 deduct, from the money collected from each employee, the costs
8 incurred by the employer because of the extra bookkeeping
9 necessary to record transactions, in an amount not to exceed 2%
10 of the amount of money collected. The judgment creditor shall
11 credit the full amount of the money collected prior to making
12 the deduction against the judgment debtor's outstanding balance
13 subject to attachment.

14 (b) Order in which attachments satisfied.--

15 (1) The following attachments have priority in the order
16 of precedence in which they are listed:

17 (i) Child support under 23 Pa.C.S. § 4348 (relating
18 to attachment of income).

19 (ii) Alimony under 23 Pa.C.S. § 3703 (relating to
20 enforcement of arrearages).

21 (iii) Student loans under section 4.3 of the act of
22 August 7, 1963 (P.L.549, No.290), referred to as the
23 Pennsylvania Higher Education Assistance Agency Act.

24 (iv) Attachment by a governmental entity other than
25 the Pennsylvania Higher Education Assistance Agency.

26 (2) Except as provided in paragraph (1), if an employer
27 is served with more than one attachment against the same
28 judgment debtor, the attachments shall be satisfied in the
29 order in which they were served. Each prior attachment shall
30 be satisfied before any effect is given to a subsequent

1 attachment.

2 Section 6. Resignation or dismissal of employee.

3 (a) Lapse of attachment.--If a judgment debtor resigns or is
4 dismissed from employment while an attachment on his wages is
5 wholly or partially unsatisfied, the attachment shall lapse. No
6 further deduction may be made unless the judgment debtor is
7 reinstated or reemployed within 90 days from the date of
8 dismissal, in which case the attachment shall not be deemed to
9 have lapsed.

10 (b) Prohibition.--An employer may not discharge an employee
11 because the employee's wages are subjected to attachment. In
12 case of a violation of this subsection, the employer or the
13 employer's agent or employee may be adjudged in contempt of
14 court and subject to a fine levied by the court of up to \$500.
15 An employee aggrieved by a violation of this subsection may
16 bring an action for damages and reasonable attorney fees in a
17 court of competent jurisdiction.

18 Section 7. Duties of judgment creditor.

19 (a) Statement of payments credited during month.--Within 15
20 days after the end of each month, the judgment creditor shall
21 furnish the employer and judgment debtor a written statement
22 showing all payments that were credited to the account of the
23 judgment debtor during that month. This subsection shall not
24 apply if no payments are received by the judgment creditor
25 during that month.

26 (b) Notice of satisfaction of attachment.--The judgment
27 creditor shall, within seven business days after the
28 satisfaction of the total monetary amount of the judgment,
29 including interest and costs, notify the employer in writing of
30 the satisfaction. The judgment creditor shall, within 30 days of

1 satisfaction of the monetary amount of the debt, take the
2 necessary legal steps to notify the clerk of the court of the
3 judgment's satisfaction.

4 (c) Application of payments.--Payments received by a
5 judgment creditor shall be credited:

6 (1) first, against the record costs of the judgment and
7 attachment order;

8 (2) second, against any accrued interest on the unpaid
9 balance of the judgment;

10 (3) third, against the principal amount of the judgment;
11 and

12 (4) fourth, against those attorney fees and costs
13 actually assessed in the case.

14 (d) Failure of judgment creditor to comply.--If the judgment
15 creditor fails to comply with the obligations imposed by this
16 section, the court may set aside the attachment and order the
17 judgment creditor to pay reasonable attorney fees and costs of
18 the party seeking to set aside the attachment.

19 Section 8. Waiver of sovereign immunity.

20 Wages due from or payable by the Commonwealth or a political
21 subdivision or authority are subject to this act as if any of
22 these entities were a private person.

23 Section 9. Exclusion.

24 This act shall not apply to an attachment authorized under 23
25 Pa.C.S. (relating to domestic relations), under 42 Pa.C.S. §
26 8127 (relating to personal earnings exempt from process), by
27 statute or rule of court.

28 Section 10. Applicability.

29 (a) Confession of judgment.--This act shall not apply to a
30 judgment arising from a confession of judgment for money

1 pursuant to an instrument authorizing the confession.

2 (b) Excessive interest.--The remedies provided for in this
3 act shall not be available to a judgment creditor whose loan
4 contract with the judgment debtor provides for an interest rate
5 on the unpaid balance after judgment which is greater than ten
6 percentage points above the maximum residential mortgage
7 interest rate established under section 301 of the act of
8 January 30, 1974 (P.L.13, No.6), referred to as the Loan
9 Interest and Protection Law; nor shall the remedies of this act
10 be available to a judgment creditor whose loan contract with the
11 judgment debtor provides for an interest rate or finance charge
12 on the unpaid balance after judgment which is higher than the
13 interest rate or finance charge on the unpaid balance prior to
14 judgment.

15 Section 11. Stay of other remedies.

16 The election and implementation of the wage attachment remedy
17 by a judgment creditor against a judgment debtor shall operate
18 as a stay as to other execution remedies, including, but not
19 limited to, bank attachments and sheriff's sales, as long as the
20 wage attachment remains in force. Nothing contained in this act
21 shall be construed as impairing any judgment lien which may be
22 in effect.

23 Section 12. Repeals.

24 All acts and parts of acts are repealed insofar as they are
25 inconsistent with this act.

26 Section 13. Effective date.

27 This act shall take effect in 30 days.