

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2558 Session of
2002

INTRODUCED BY CAPPELLI, R. MILLER, HESS, KENNEY, TURZAI, WILT,
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VANCE AND WANSACZ, APRIL 16, 2002

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 16, 2002

AN ACT

1 Authorizing the attachment of wages by landlords.

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 Landlord
6 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:

12 (1) a judgment by a court ordering payment of a sum by
13 the judgment debtor to the judgment creditor landlord; and

14 (2) an order of attachment of or execution on wages
15 entered by a court and ordering the payment of a sum by the
16 judgment debtor to the judgment creditor landlord.

1 "Employee." Includes an employee, whether a resident or
2 nonresident of this Commonwealth.

3 "Judgment creditor landlord." Includes a landlord that has
4 obtained a judgment arising out of a residential lease upon
5 which the court has rendered judgment which is final.

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

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

14 Section 3. Nature of attachment.

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

21 (b) Waiver.--A waiver of the limitations set forth in
22 section 4, whether given orally or in writing, is void.

23 (c) Notice to debtor.--

24 (1) A judgment debtor must be given advance notice prior
25 to any attachment of income under this act.

26 (2) The notice must specify the percentage of wages to
27 be withheld, the application of the order of attachment, how
28 and when the order may be contested and the grounds upon
29 which the order may be contested.

30 (3) The notice must be served upon the judgment debtor

1 in person or by first class, certified mail, which requires a
2 receipt to be signed by the addressee.

3 (4) No attachment shall constitute a lien or take effect
4 until notice has been provided to the judgment debtor under
5 this subsection.

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

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

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

19 Section 4. Limitations on wages subject to attachment.

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

23 (1) a sum not to place the judgment debtor's net income
24 below the poverty income guidelines as provided annually by
25 the Federal Office of Management and Budget; or

26 (2) 90% of the judgment debtor's wages.

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

29 Section 5. Duties of employer.

30 (a) Withhold and remit.--While the attachment remains a

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

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

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

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

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

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

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

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

1 Section 6. Resignation or dismissal of employee.

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

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

16 Section 7. Duties of judgment creditor.

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

24 (b) Notice of satisfaction of attachment.--The judgment
25 creditor landlord shall, within seven business days after the
26 satisfaction of the total monetary amount of the judgment,
27 including interest and costs, notify the employer in writing of
28 the satisfaction. The judgment creditor landlord shall, within
29 30 days of satisfaction of the monetary amount of the debt, take
30 the necessary legal steps to notify the clerk of the court of

1 the judgment's satisfaction.

2 (c) Application of payments.--Payments received by a
3 judgment creditor landlord shall be credited:

4 (1) first, against the record costs of the judgment and
5 attachment order;

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

8 (3) third, against the principal amount of the judgment;
9 and

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

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

18 Section 8. Waiver of sovereign immunity.

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

22 Section 9. Exclusion.

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

27 Section 10. Applicability.

28 This act shall not apply to a judgment arising from a
29 confession of judgment for money pursuant to an instrument
30 authorizing the confession.

1 Section 11. Stay of other remedies.

2 The election and implementation of the wage attachment remedy
3 by a judgment creditor landlord against a judgment debtor shall
4 operate as a stay as to other remedies for the execution of the
5 monetary judgment being collected, including bank attachments
6 and sheriff's sales, as long as the wage attachment remains in
7 force. Nothing contained in this act shall be construed as
8 impairing any judgment lien which may be in effect.

9 Section 39. Repeals.

10 All acts and parts of acts are repealed insofar as they are
11 inconsistent with this act.

12 Section 40. Effective date.

13 This act shall take effect in 30 days.