

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1391

Session of
1995

INTRODUCED BY DEMPSEY, TRELLO, FLEAGLE, MERRY, NAILOR, WAUGH,
PLATTS, BROWN, FARGO, GEIST, BARLEY, SAYLOR, SATHER,
L. I. COHEN, MILLER, MICOZZIE, E. Z. TAYLOR, GODSHALL, LEH,
SCHRODER, WOGAN, BATTISTO, HERSHEY, STABACK, SEMMEL, HALUSKA,
BAKER, HENNESSEY, BOSCOLA, GLADECK, CHADWICK, FEESE,
STEELMAN, RAYMOND, SERAFINI AND STRITTMATTER, APRIL 20, 1995

AS REPORTED FROM COMMITTEE ON LABOR RELATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JANUARY 30, 1996

AN ACT

- 1 Authorizing the attachment of wages; AND MAKING A REPEAL. <—
- 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 Garnishment
- 6 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 "Employee." The term includes an employee whether he is a
- 12 resident or nonresident of this Commonwealth.
- 13 "Wages." The NET monetary remuneration paid to an employee <—
- 14 for his employment.
- 15 Section 3. Nature of attachment.

1 (a) Attachment constitutes ~~containing~~ CONTINUING lien.--When <—
2 an attachment is levied against the wages of a judgment debtor,
3 the attachment shall constitute a lien on all attachable wages
4 that are payable at the time the attachment is served or which
5 become payable until the judgment, interest and costs, as set
6 forth in the attachment, are satisfied.

7 (b) Waiver.--A waiver of the limitations set forth in
8 section 4, whether given orally or in writing, shall be void.

9 (C) NOTICE TO DEBTOR.--A JUDGMENT DEBTOR MUST BE GIVEN <—
10 ADVANCE NOTICE PRIOR TO ANY ATTACHMENT OF INCOME UNDER THIS ACT.
11 THE NOTICE MUST SPECIFY THE PERCENTAGE OF WAGES TO BE WITHHELD,
12 THE APPLICATION OF THE ORDER OF ATTACHMENT, HOW AND WHEN THE
13 ORDER MAY BE CONTESTED AND THE GROUNDS UPON WHICH THE ORDER MAY
14 BE CONTESTED. THE NOTICE MUST BE SERVED UPON THE JUDGMENT DEBTOR
15 BY FIRST CLASS, CERTIFIED MAIL, WHICH REQUIRES A RECEIPT TO BE
16 SIGNED BY THE ADDRESSEE. NO ATTACHMENT SHALL CONSTITUTE A LIEN
17 OR TAKE EFFECT IN ANY MANNER UNTIL NOTICE HAS BEEN PROVIDED TO
18 THE JUDGMENT DEBTOR UNDER THIS SUBSECTION.

19 Section 4. Limitations on wages subject to attachment.

20 (a) Amount of wages exempt.--The following are exempt from
21 attachment:

22 (1) Payments for medical insurance, dental insurance, or
23 both, deducted from an employee's wages by the employer.

24 (2) The greater of 30 times the Federal minimum wage or
25 75% of the net weekly take-home pay.

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

28 Section 5. Duties of employer.

29 (a) Duty to withhold and remit.--While the attachment
30 remains a lien, the employer who is subject to a garnishment

1 shall withhold the attachable wages payable to a judgment debtor
2 and shall remit the amount withheld to the judgment creditor or
3 his legal representative within 15 days from the close of the
4 last pay period in each month. The employer shall be entitled to
5 deduct from the moneys collected from each employee the costs
6 incurred from the extra bookkeeping necessary to record such
7 transactions, not exceeding 2% of the amount of money so
8 collected.

9 (b) Order in which attachments satisfied.--~~If an employer is~~ <—

10 (1) THE FOLLOWING ATTACHMENTS HAVE PRIORITY IN THE ORDER <—
11 OF PRECEDENCE IN WHICH THEY ARE LISTED:

12 (I) CHILD SUPPORT UNDER 23 PA.C.S. § 4348 (RELATING
13 TO ATTACHMENT OF INCOME).

14 (II) ALIMONY UNDER 23 PA.C.S. § 3703 (RELATING TO
15 ENFORCEMENT OF ARREARAGES).

16 (III) ATTACHMENT BY A GOVERNMENTAL ENTITY.

17 (2) EXCEPT AS PROVIDED IN PARAGRAPH (1), IF AN EMPLOYER
18 IS served with more than one attachment against the same
19 judgment debtor, then the attachments shall be satisfied in
20 the order in which they were served. Each prior attachment
21 shall be satisfied before any effect is given to a subsequent
22 attachment.

23 Section 6. Resignation or dismissal of employee.

24 (a) Lapse of attachment.--If a judgment debtor resigns or is
25 dismissed from his employment while an attachment on his wages
26 is wholly or partially unsatisfied, the attachment shall lapse.
27 No further deduction may be made unless the judgment debtor is
28 reinstated or reemployed within 90 days from the date of
29 dismissal, IN WHICH CASE THE ATTACHMENT SHALL NOT BE DEEMED TO <—
30 HAVE LAPSED.

1 (b) Prohibition.--An employer may not discharge his employee
2 because the employee's wages are subjected to attachment. IN <—
3 CASE OF A VIOLATION OF THIS SUBSECTION, THE EMPLOYER OR THE
4 EMPLOYER'S OFFICER OR EMPLOYEE MAY BE ADJUDGED IN CONTEMPT OF
5 COURT AND SUBJECT TO A FINE LEVIED BY THE COURT OF UP TO \$500.
6 AN EMPLOYEE AGGRIEVED BY A VIOLATION OF THIS SUBSECTION MAY
7 BRING AN ACTION FOR DAMAGES AND REASONABLE ATTORNEY FEES IN A
8 COURT OF COMPETENT JURISDICTION.

9 Section 7. Duties of judgment creditor.

10 (a) Statement of payments credited during month.--Within 15
11 days after the end of each month, the judgment creditor shall
12 furnish the employer, judgment debtor and clerk of the court a
13 written statement showing all payments that were credited to the
14 account of the judgment debtor during that month. However, this
15 subsection shall not apply if no payments were received by the
16 judgment creditor during that month.

17 (b) Notice of satisfaction of attachment.--The judgment
18 creditor shall, within ~~15~~ SEVEN BUSINESS days after the <—
19 satisfaction of THE TOTAL MONETARY AMOUNT OF the judgment, <—
20 INCLUDING interest and costs, notify in writing the employer and <—
21 ~~the clerk of the court~~ of the satisfaction. THE JUDGMENT <—
22 CREDITOR SHALL, WITHIN 30 DAYS OF SATISFACTION OF THE MONETARY
23 AMOUNT OF THE DEBT, TAKE THE NECESSARY LEGAL STEPS TO NOTIFY THE
24 CLERK OF THE COURT OF THE JUDGMENT'S SATISFACTION.

25 (c) Application of payments received by judgment creditor.--
26 All payments received by a judgment creditor shall be credited
27 first against THE RECORD COSTS OF THE JUDGMENT AND ATTACHMENT <—
28 ORDER; SECOND AGAINST the accrued interest on the unpaid balance
29 of the judgment, if any, ~~second upon~~; THIRD AGAINST the <—
30 principal amount of the judgment, ~~and third upon~~; AND FOURTH <—

1 AGAINST those attorney fees and costs actually assessed in the
2 ~~cause~~ CASE. <—

3 (d) Failure of judgment creditor to comply with section.--If
4 the judgment creditor fails to comply with the obligations
5 imposed by this section, the court may set aside the attachment
6 and order the judgment creditor to pay reasonable attorney fees
7 and costs of the party seeking to set aside the attachment.

8 Section 8. Waiver of sovereign immunity.

9 Wages due from or payable by the Commonwealth or any
10 municipal government or authority are subject to this act as if
11 any of these entities were a private person.

12 SECTION 9. REPEAL. <—

13 THE PROVISIONS OF 42 PA.C.S. § 8127 ARE REPEALED.

14 SECTION 10. APPLICABILITY.

15 THIS ACT SHALL NOT APPLY TO A JUDGMENT ARISING FROM A
16 CONFESSION OF JUDGMENT FOR MONEY PURSUANT TO AN INSTRUMENT
17 AUTHORIZING THE CONFESSION.

18 Section 9 11. Effective date. <—

19 This act shall take effect in 90 days.