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Deanna Hellmuth
Operator's Signature

10/17/03
Date

2003 SENATE JUDICIARY

SB 2204

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10/17/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2204

Senate Judiciary Committee

Conference Committee

Hearing Date 01/21/03

Tape Number	Side A	Side B	Meter #
1	x		51.1 - end
1		x	0.0 -20.0
Committee Clerk Signature <i>Maria L. Solberg</i>			

Minutes: **Senator Traynor** opened the hearing on SB 2204. All members were present.

Testimony in Support of SB 2204

Senator Rich Wagner testified in favor of and introduced the bill. He supports the bill because it is good for everyone involved including those who owe money because it reduces the time involved in the collection process and therefore the cost.

Todd Kranda, lobbyist for the North Dakota Collector's Association, testified in favor of the bill.

(written testimony) (meter 52.6)

Senator Lyson asked why garnishments and executions made for the length of the judgment?

Mr. Kranda reviewed the history of the act. It has progressed from 60 days to 120 days. It is slowly changing.

Senator Nelson asked for a hypothetical case involving garnishments.

Mr. Kranda said a judgment is entered. The attempt is then made to collect the judgment as either a lien on property or assets or garnishment of wages. In the case of a garnishment, the

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Bill/Resolution Number SB 2204
Hearing Date 1/21/03

employer is notified and a formula is used to determine how much of the debtor's wages are available for garnishment. If the figure is less than ten dollars, no garnishment is made. The employer is given a small fee for doing the garnishment. The employer then starts to hold the determined amount from the employees pay. If the debtor agrees, the employer sends in the money on a pre determined schedule. If the debtor does not agree, the sheriff goes out and collects the money and charges a fee. It is not the minimum wage earners who have their wages garnished because they are protected under the statute so they can have certain money available for living.

Senator Nelson said it sounds like a payroll deduction plan. (meter # 5.6)

Mr. Kranda said garnishment isn't always used, its a tool to collect a judgment in some cases.

Senator Traynor asked if there is still a notice before foreclosure.

Mr. Kranda said yes but a foreclosure isn't usually used to satisfy a judgment.

Mike Lefor, Legislative Director for the North Dakota Collector's Association Testified in favor of the bill. (written testimony) (meter # 7.7) Discussion of collection process.

Senator John T. Traynor, Chairman asked; What is the negative impact to the debtor? None in fact the positive is that the administration fees for paperwork/payroll deduction that have expired that are recharged will not happen twice with this longer time frame.

Senator Carolyn Nelson discussed time limitations with Mr. Lefor. (meter 14.0) Average account size is \$375. Industry average statewide is \$350. We deal with a lot of medical bills so our averages are higher. Kim Rou spoke of the collection process (meter 16.5) Payroll deduction working with what people can do, not leave them destitute.

Testimony in oppositions to SB 2204

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Bill/Resolution Number SB 2204
Hearing Date 1/21/03

None

Testimony Neutral to SB 2204

None

Motion Made to Do Not Pass SB 2204 by Senator Thomas L. Trenbeath , seconded by Senator
Dennis Bercier

Roll Call Vote: 6 Yes. 0 No. 0 Absent

Motion Passed

Carrier Senator John Traynor

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Dennis Bercier
Operator's Signature

10/17/03
Date

Date: January 21, 2003
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2204

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Senator Thomas L. Trenbeath Seconded By Sen. Bercier

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	X	
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) Six (6) No Zero (0)

Absent Zero (0)

Floor Assignment Senator John T. Traynor, Chairman

If the vote is on an amendment, briefly indicate intent:

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Deanne Hall 10/17/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 23, 2003 12:17 p.m.

Module No: SR-13-0957
Carrier: Traynor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2204: Judiciary Committee (Sen. Traynor, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2204 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-13-0957

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10/17/03
Date

2003 HOUSE JUDICIARY

SB 2204

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10/17/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2204

House Judiciary Committee

Conference Committee

Hearing Date 3-12-03

Tape Number	Side A	Side B	Meter #
1	xx		30.9-48.3

Committee Clerk Signature *A. Penrose*

Minutes: 9 members present, 4 members absent (Reps. Galvin, Grande, Wrangham, Eckre)

Chairman DeKrey: We will open the hearing on SB 2204.

Sen. Rich Wardner: Support, introduced the bill.

Todd Kranda, ND Collectors Association: Support, explained the bill. The ND Collectors Association has 26 members throughout ND who are affiliated. What this bill does is to extend the period of time under the garnishment law. The period of time that we are extending is the 180 day period to a period of 270 days. It's the period of time for the accrual of funds. Once the garnishment has been issued to the employer, and the funds are being collected, current law says it goes for 180 days of process, up to 180 days for the pay out. We would like to extend that to the 270 time frame. Because of the extension of that period of time of the accrual of funds, it necessarily is a further extension of the 270 days that are set in the bill for the collection of those funds that are accrued. Right now, you are allowed 270 days and we want to bump that likewise to a period of 360. Page 1, line 9 is the first change you find in the bill. That change extends the

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Hearing Date 3-12-03

period for issuing the execution until 360 days. The execution again, is where you send the sheriff, to go out to the employer and pick up the monies or funds that have been retained from the employee under the garnishment that was issued and executed originally. The next change you see is on page 3, lines 27 and 29, that simply is in the form. There is a statutory form that the Legislature has provided for this process and to make that form coincide with the law change, we needed to make those changes on that page to extend again the period to 360. The next change is page 4, line 22. That deals with identifying that after the 360 day period for the execution, the garnishment would lapse or terminate. So it is an end date. If nothing is done or for some reason you don't send the sheriff to go collect those monies that are retained, the garnishment ends, and those monies would be returned and available back to the wage earner, it just puts an end date on it, terminating it. On the same page, line 30 and 31, there is a lien that is created on the wages under the garnishment and that lien term is extended for 270 days under the garnishment as opposed to 180 days. The final change is on page 5, line 4, what that does is indicate that the earnings that are subject to garnishment under statutory formula are held and they accrue, or are maintained for 270 days period, which is the duration of the garnishment that the employer is processing, the type of recovery for the wages.

Rep. Delmore: Is there interest earned on the garnishment and if so, where does the interest that is earned on a garnishment go.

Mr. Kranda: Not simply because of the garnishment is there interest, but the judgments as a matter of law in ND have a legal rate of interest. The legal rate of interest is 12% and it's set by law. Unless the debt has a greater amount than that, the judgment would continue to accrue at

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Hearing Date 3-12-03

that contractual amount. There is no interest rate on the garnishment itself, but on the judgment.

You have to have a judgment in place before you can use the garnishment process.

Rep. Grande: I'm sorry that I missed the first part of your testimony, what is the reason behind the extension of time here, and the benefits of it.

Mr. Kranda: We believe that the reasoning will benefit both parties. What you have here is a debt that has been determined judiciously to be owed, a process that is the final resort to collect the debt, and all of these costs that are incurred in filing, execution fees, sheriff fees, garnishment fees, etc. all add on to the debt that the debtor has to pay. So if you were to extend this period of time of the process, a lot of times you don't see the recovery of the amount within that 180 day period. My understanding from testimony presented in the Senate side, up to 85% of the debt that he attempts to pursue, would be collected within the 270 day period and it would be recovered and finished. We think it will be helpful to both parties; the business doesn't have to go through the process again, the business person that is doing the collection so they don't have to reinstitute. You are allowed in the garnishment once the 180 days would have expired under the current law, to go again and go through the whole process and start another garnishment for another 180 days. One of the senators asked why there is an end date at all, why not let it run until it is paid. We said we didn't think it would be appropriate. With the extension of time, this will save money for the debtor in not having to pay all new fees for the garnishment.

Rep. Klein: Wasn't there another bill that amended this same section somewhere about the information that the employer has to provide.

Mr. Kranda: I think there is, I don't remember. I know that Rep. Kaiser has dealt with the form in the past and I'm not sure that I recall a bill out this session that deals with that.

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Hearing Date 3-12-03

Rep. Klemin: It seems to me that there was one, I'm not sure if it was amending the same text or not.

Mr. Kranda: There had been a bill last session, there had been two bills on the same section at that time. I don't think this session I have seen anything else on that.

Chairman DeKrey: Thank you.

Mike Lefor, ND Collectors Association, Legislative Director: Support (see attached testimony). By lengthening the time of the garnishment process, we are simplifying the process for all involved, especially the consumer and the consumer's employer.

Rep. Delmore: You talk about the process costs between \$25-45. Is that costs that you bear and do you recover that in the end.

Mr. Lefor: You are correct. That is a cost that is added to the overall bill and we pay it up front, but do recover when the bill is paid.

Chairman DeKrey: Thank you. Further testimony in support?

Mr. Kranda: Rep. Klemin, I had a chance to sit back and reflect, 1427 is a bill that you may be referring to, it's a study of garnishment forms, there is a section within that bill, section 4 that talks about garnishment forms, to study and simplify the process, and that's already been passed through the house, in fact it's had its Senate hearing earlier this week.

Chairman DeKrey: Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2204.

Rep. Delmore: I move a Do Pass.

Rep. Maragos: Seconded.

9 YES 0 NO 4 ABSENT

DO PASS

CARRIER: Rep. Onstad

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Date

Date: 3/12/03
 Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2204

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Delmore Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	AB	
Rep. Bernstein	✓		Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin	AB				
Rep. Grande	AB				
Rep. Kingsbury	✓				
Rep. Klemm	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	AB				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Rep. Onstad

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Deanne Hall Operator's Signature 3/17/03 Date

REPORT OF STANDING COMMITTEE (410)
March 12, 2003 11:35 a.m.

Module No: HR-44-4550
Carrier: Onstad
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2204: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (9 YEAS,
0 NAYS, 4 ABSENT AND NOT VOTING). SB 2204 was placed on the Fourteenth
order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-44-4550

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2003 TESTIMONY

SB 2204

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Senate Judiciary Committee
Hearing on Senate Bill 2204
Mike Lefor, NDCA

Telephone: 701-483-9111
Email: mlefor@dcicredit.com

Good morning Chairman Traynor and members of the Senate Judiciary Committee. My name is Mike Lefor; I am the legislative director for the North Dakota Collectors Association. I am here to speak in favor of Senate Bill 2204. If passed, this bill would make the garnishment process much easier for all involved, especially the consumer and the consumer's employer.

Once a judgment has been obtained you must wait a period of 10 days before beginning the garnishment process. After that, the consumer is sent a ten-day notice before garnishment prior to service of garnishment papers. This allows the consumer to make arrangements to settle the debt prior to garnishment.

If arrangements are not made, it becomes necessary to serve the garnishee notice on the consumer by restricted, certified mail. If the consumer is unable to claim this mailing from the post office it is necessary to have the sheriff serve them. This happens in nearly 50% of the cases our organization processes. Once the consumer is served, a certified letter is then sent to the employer.

The total cost of this process ranges between \$25.00-\$45.00 every 180 days.

Once the 180 days are complete, it is necessary to repeat this process beginning with the 10-day warning. This serves to confuse consumers, as they are concerned that it is another judgment and they do not realize it is the same process, just renewing the garnishment.

Same testimony turned in House

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This process lengthens the time to satisfy the judgment this adding more interest charges to the consumer. When you combine the cost of repeating the process and interest charges it can easily be over \$100.00. By adding ninety days to the garnishment period you would saving the consumer this cost, confusion and frustration and the employer time in filling out another garnishment form.

If Senate Bill 2204 were to become law in the state of North Dakota, it would have a positive impact on the consumer and the consumer's employer in reducing costs and paperwork. Thank you.

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