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DESCRIPTION

1427

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La Costa Rickford
Operator's Signature

10/16/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1427

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Salvatore Riccardi
Operator's Signature

10/6/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1427

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2/04/03

Tape Number	Side A	Side B	Meter #
1		x	11.7-41.6
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Kelser** opened the hearing on HB 1427.

Rep. Weller, District 30, introduced HB 1427 and distributed proposed hog house amendments.

Three things will be accomplished within this legislation:

1. The amount paid to an employer for compliance with completing garnishment paperwork is increased from \$10-\$25.
2. Employers will not longer have possible liability for employee's debts
3. A legislative study to streamline forms

Rep. Severson: If we're looking at a 9 month term of compliance, shouldn't we look at raising the compliance fee higher than \$25?

Rep. Weller: The fee does get charged back to the garnished employee

Rep. Ekstrom: Regarding "shall consider study" may in Section 4, doesn't attachment to a bill mandate a study?

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1427

Hearing Date 2/4/03

Rep. Weiler: I'd appreciate this committee having a closer look at that. I'd be OK with that change.

Dale Gosset, business owner of Bismarck, testified in support of HB 1427. He testified that by the time wages are garnished, credit collection agencies have exhausted their efforts. He takes the potential liability issue very seriously. As an employer, he seeks legal counsel, incurs accounting and notarizing fees. A particular item on the form that is vexing to him is procuring a "verifiable list of dependents". He requested that this process be made easier for employers to comply. This all becomes another cost of doing business.

Rep. Ruby: Why isn't garnishment handled like child support? That's court ordered and calculated.

Rep. Dosch, District 32, appeared in support of HB 1427. He announced that he was appearing on his own behalf as a local business owner and stated that he thinks this liability issue is unfair. A collection agency collects 30-50%. Banks charge \$25 for NSF checks. There are so many variables involved. This process has a huge impact on small businesses, service industries and hourly wage employees.

Kim Rau, representing the North Dakota Association of Collection Agencies, testified in opposition to HB 1427. (see attached # 2). NDACA favors an interim study. They are opposed to increasing the fee paid to employers. Minnesota and Montana do not pay a fee to employers. South Dakota pays \$15. The form needs to be improved. Very few employers won't comply and the court has overturned judgments against employers. She offered to work with the interim committee to improve the forms.

Rep. Nottestad: Where does this form originate?

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1427

Hearing Date 2/4/03

Kim Rau: The Century Code is the source of the form.

Rep. Dosch: What would you charge me to collect a \$100 NSF check?

Kim Rau: We don't do NSF's but for other types of collection, we'd charge anywhere from 10-50%. 50% for out of state services.

Chairman Keiser: What cut would you get for a \$3000 medical bill?

Kim Rau: Including legal expenses, 21-40%.

Rep. Kasper: What kind of instructions are included with this form when it is sent to employers?

Kim Rau: There isn't one but we take a lot of calls and walk them through the process.

Rep. Severson: If I call you, you'll tell me you're not a lawyer. My attorney charges me \$125 an hour, and I only get \$10? You don't think that \$25 is fair to employers?

Kim Rau: We'd just like more time to determine what's fair to everybody. We charge the fee back to the debtor. A lot of times, as soon as we do the garnishment request, the employee quits.

Chairman Keiser: Who collects the \$10? And when is it collected? And money ends up back at your agency? As long as the garnishment occurs, you are going to get paid?

Kim Rau: It's included in the 110% of the garnishment, it's calculated right in there. As long as they make enough to be garnished, yes, we get paid.

As there was no one else present to testify in opposition to HB 1427, the hearing was closed.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1427

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
2	X		4714-end
Committee Clerk Signature <i>Elizabeth R. Jir</i>			

Minutes: **Chair Keiser:** Opened discussion on HB 1427.

Rep. Dosch presented the hog house amendment.

Rep. Keiser told the committee the "willfully" has to be in the bill or the Governor will not sign it. After reading the current Century Code, "willfully" is currently in as it was added two years ago.

Rep. Klein moved to adopt the amendment (.0103). Seconded by Rep. Boe. Voice vote.

Amendment adopted.

Rep. Klein moved to recommend DP as amended. Rep. Boe seconded the motion.

Vote: **14 Yes 0 No 0 Absent and not voting Carrier: Boe**

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Vol Costa Richardson
Operator's Signature

10/16/03
Date

LR 10

FISCAL NOTE
Requested by Legislative Council
02/13/2003

Amendment to: HB 1427

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,800	\$0	\$1,800	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

OMB has approximately 60 garnishments per year on state payroll. The garnishment fee is deposited in the general fund. A fee increase would provide \$1,800 in additional general fund revenue per biennium.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Elleen Holwegner	Agency:	OMB
Phone Number:	328-1666	Date Prepared:	02/14/2003

Richard Costa
Operator's Signature

10/16/03
Date

38328.0102
Title.

Prepared by the Legislative Council staff for
Representative Weller
February 3, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1427

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century Code, relating to garnishment disclosure fees and default judgments; and to provide for a legislative council study of garnishment forms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-05. Service on office of management and budget - Fees. Service upon the state of North Dakota, or any institution, department, or agency thereof, as garnishee, may be made upon the director of the office of management and budget in the manner provided by law for service in garnishment proceedings, including the fee to be tendered and paid the office of management and budget for making and filing an affidavit of disclosure in the amount of ~~ten~~ twenty-five dollars. The fee shall be paid into the state treasury.

SECTION 2. AMENDMENT. Section 32-09.1-10 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-10. Disclosure fees. In all garnishment proceedings, the plaintiff, when the garnishee summons is served upon the garnishee, shall tender to the garnishee the sum of ~~ten~~ twenty-five dollars as the fee for making an affidavit of disclosure.

SECTION 3. AMENDMENT. Section 32-09.1-14 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-14. Default. If any garnishee who is duly summoned ~~willfully~~ knowingly fails to serve disclosure as required in this chapter, the court, upon proof by affidavit of the creditor, may render judgment against the garnishee for an amount not exceeding the plaintiff's judgment against the defendant or one hundred ten percent of the amount which remains unpaid, whichever is the smaller, ~~but the~~. The creditor shall serve the garnishee with a copy of the affidavit and a notice of intent to take default judgment. The court upon good cause shown may remove the default and permit the garnishee to disclose on terms as may be just.

SECTION 4. LEGISLATIVE COUNCIL STUDY - GARNISHMENT FORMS. During the 2003-04 interim, the legislative council shall consider studying the garnishment forms under North Dakota Century Code chapter 32-09.1, and whether actions may be taken to clarify and simplify the forms and garnishment proceedings. If the study is conducted, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

38328.0103
Title.0200

Prepared by the Legislative Council staff for
Representative Weller
February 10, 2003

VR
2/11/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1427 IBL 2-12-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century Code, relating to garnishment disclosure fees and default judgments; and to provide for a legislative council study of garnishment forms.

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SECTION 2. AMENDMENT. Section 32-09.1-10 of the North Dakota Century Code is amended and reenacted as follows:

32-09.1-10. Disclosure fees. In all garnishment proceedings, the plaintiff, when the garnishee summons is served upon the garnishee, shall tender to the garnishee the sum of ~~ten~~ twenty-five dollars as the fee for making an affidavit of disclosure.

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32-09.1-14. Default. If any garnishee who is duly summoned willfully fails to serve disclosure as required in this chapter, the court, upon proof by affidavit of the creditor, may render judgment against the garnishee for an amount not exceeding the plaintiff's judgment against the defendant or one hundred ten percent of the amount which remains unpaid, whichever is the smaller, ~~but the~~. The creditor shall serve the garnishee with a copy of the affidavit and a notice of intent to take default judgment. ~~The court upon good cause shown may remove the default and permit the garnishee to disclose on terms as may be just.~~

SECTION 4. LEGISLATIVE COUNCIL STUDY - GARNISHMENT FORMS. During the 2003-04 interim, the legislative council shall consider studying the garnishment forms under North Dakota Century Code chapter 32-09.1, and whether actions may be taken to clarify and simplify the forms and garnishment proceedings. If the study is conducted, the legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

Page No. 1

38328.0103

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La Costa Richard
Operator's Signature

10/16/03
Date

Date: 2/11/03
Roll Call Vote #: |

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1427

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as amended .0103

Motion Made By Klein Seconded By Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	✓	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froeth	✓		Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Boe

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

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La Costa Rickford
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 8:47 a.m.

Module No: HR-27-2372
Carrier: Boe
Insert LC: 38328.0103 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1427: Industry, Business and Labor Committee (Rep. Kelser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1427 was placed
on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and
reenact sections 32-09.1-05, 32-09.1-10, and 32-09.1-14 of the North Dakota Century
Code, relating to garnishment disclosure fees and default judgments; and to provide for
a legislative council study of garnishment forms.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-05 of the North Dakota Century
Code is amended and reenacted as follows:

32-09.1-05. Service on office of management and budget - Fees. Service
upon the state of North Dakota, or any state institution, department, or agency thereof,
as garnishee, may be made upon the director of the office of management and budget
in the manner provided by law for service in garnishment proceedings, including the fee
to be tendered and paid the office of management and budget for making and filing an
affidavit of disclosure in the amount of ~~ten~~ twenty-five dollars. The fee ~~shall~~ must be
~~paid into~~ deposited in the state treasury.

SECTION 2. AMENDMENT. Section 32-09.1-10 of the North Dakota Century
Code is amended and reenacted as follows:

32-09.1-10. Disclosure fees. In all garnishment proceedings, the plaintiff,
when the garnishee summons is served upon the garnishee, shall tender to the
garnishee the sum of ~~ten~~ twenty-five dollars as the fee for making an affidavit of
disclosure.

SECTION 3. AMENDMENT. Section 32-09.1-14 of the North Dakota Century
Code is amended and reenacted as follows:

32-09.1-14. Default. If any garnishee who is duly summoned willfully fails to
serve disclosure as required in this chapter, the court, upon proof by affidavit of the
creditor, may render judgment against the garnishee for an amount not exceeding the
plaintiff's judgment against the defendant or one hundred ten percent of the amount
which remains unpaid, whichever is the smaller, ~~but the~~. The creditor shall serve the
garnishee with a copy of the affidavit and a notice of intent to take default judgment.
The court upon good cause shown may remove the default and permit the garnishee to
disclose on terms as may be just.

SECTION 4. LEGISLATIVE COUNCIL STUDY - GARNISHMENT FORMS.
During the 2003-04 Interim, the legislative council shall consider studying the
garnishment forms under North Dakota Century Code chapter 32-09.1, and whether
actions may be taken to clarify and simplify the forms and garnishment proceedings. If
the study is conducted, the legislative council shall report its findings and
recommendations, together with any legislation required to implement the
recommendations, to the fifty-ninth legislative assembly."

Renumber accordingly

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1427

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Salvatore Riccardi
Operator's Signature

10/6/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1427

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-11-03

Tape Number	Side A	Side B	Meter #
1		xxxx	5000-end
2	xxxx		0-3255
Committee Clerk Signature <i>Dug Van Berkom</i>			

Minutes: Chairman Mutch opened the hearing on HB 1427. Senator Krebsbach was absent.

HB 1427 relates to exemptions to collection agency license requirements.

Testimony in support of HB 1427

Representative Weller introduced the bill. Here is a scenario. I am an employee and I have a debt that the collection agency is trying to collect. When they find out where I work, my employer is notified of this debt. Now what happens is the employer has to fill out forms each pay period. The employer is reimbursed \$10 for 6 months of collecting this debt for the agency. Often you need to contact a lawyer to explain the situation. Amendments were submitted.

Dale Gossett, owner of Taco Johns restaurants in Bismarck and Mandan, spoke in support of the bill. He states that as an employer he usually he has several employees at a time who fall into this action and he is stuck mediating and collecting the bill for the collection agency. See attached garnishee charges against Taco Johns. It is a cumbersome task and calls for more pay.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1427

Hearing Date 03-11-03

Joel Gilbertson, G.E. Financial, submitted amendments. See attached. These amendments were taken directly from the Oregon Century Code.

Neutral testimony

Greg Meidinger, Dept. of Financial Institutions, stated for the record that they are neutral on the bill.

Testimony in opposition of HB 1427

Kim Rauland, North Dakota Debt Collectors Assoc., spoke in opposition to the bill. She feels that anyone who collects debt should be licensed. The employer is not making it easier for us to collect. When it gets to the point that we have to garnish wages, we are looking at a year long process. We lose money and time when it gets to this point. We do not want to involve the employer, but the law permits us to.

Senator Nething: Did you testify against this bill in the House?

Kim: Yes.

Senator Heitkamp: Is this payment to the employer of \$25.00 a one time deal, or every time he or she fills out the paperwork, or every pay period?

Kim: One time payment of \$25.00.

The hearing is closed. No action taken at this time.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1427

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-24-03

Tape Number	Side A	Side B	Meter #
1		XXXX	2600-3540
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Mutch opened the discussion on HB 1427. All Senators were present.

HB 1427 relates to garnishment disclosure fees and default judgments.

Senator Klein: The person who is being garnished will end up paying the additional fees.

Senator Krebsbach: The people whom I have spoken to have voiced concern on the fee increase as it will affect directly the people who can least afford it.

Senator Klein: Section 4 seems important to me.

Senator Nething moved to adopt amendments submitted by Rep. Weller. Senator

Heitkamp seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Senator Every moved a **DO NOT PASS AS AMENDED**. Senator Krebsbach seconded.

Roll Call Vote: 5 yes. 2 no. 0 absent.

Carrier: Senator Every

To Costa Rickford
Operator's Signature

10/16/03
Date

38328.0201
Title.0300

Prepared by the Legislative Council staff for
Representative Weller
March 10, 2003

JB
3-24-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1427

Page 1, line 3, replace "forms" with "laws"

Page 2, line 4, replace "FORMS" with "LAWS"

Page 2, line 5, after "studying" insert "garnishment laws and procedures of the state, including"

Page 2, line 6, after "to" insert "update," and after "clarify" insert a comma

Renumber accordingly

Page No. 1

38328.0201

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Richard Costa
Operator's Signature

10/6/03
Date

Date: 3-24-03
Roll Call Vote #: 1

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

Senate _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number 38328.0201

Action Taken Adopt Weiler's Amendment

Motion Made By Nething Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espegard	X				

Total (Yes) ~~Click here to add Yes Vote~~ 7 No ~~Click here to add No Vote~~ 0

Absent 0

Floor Assignment ~~Click here to add Floor Assignment~~

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

Operator's Signature To Costa Rickford

10/16/03
Date

Date: 3-24-03
Roll Call Vote #: 2

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

Senate 1427 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass As Amended

Motion Made By Every Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp		X			
Senator Every	X				
Senator Espegard		X			

Total (Yes) ~~Click here to type Yes~~ 5 No ~~Click here to type No~~ 2

Absent 0

Floor Assignment ~~Click here to type Floor Assignment~~ Every

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

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Jo Costa Rickford
Operator's Signature

10/16/03
Date

REPORT OF STANDING COMMITTEE (410)
March 25, 2003 2:05 p.m.

Module No: SR-53-5694
Carrier: Every
Insert LC: 38328.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1427, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1427 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "forms" with "laws"

Page 2, line 4, replace "**FORMS**" with "**LAWS**"

Page 2, line 5, after "studying" Insert "garnishment laws and procedures of the state, including"

Page 2, line 6, after "to" Insert "update," and after "clarify" Insert a comma

Renumber accordingly

2003 TESTIMONY

HB 1427

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Salvatore Riccardi
Operator's Signature

10/16/03
Date

TESTIMONY BEFORE THE HOUSE IBL COMMITTEE
HOUSE BILL 1427
FEBRUARY 4, 2003

Chairman Keiser and members of the committee, my name is Kim Rau with the North Dakota Collector's Association. I appear before you in favor of the amendment seeking an interim study on the garnishment disclosure form. We are against the amendment to increase the fee to the Garnishee from \$10 to \$25.

The garnishment disclosure form can be difficult to understand, so the employers are seeking advice from their attorney's or accountants on how to comply with the garnishment order. Once the form is broken down, explained, and the first disclosure is completed, the employer generally does not need further advice from council. What the interim committee will be able to do is seek a simpler way to achieve the goal of getting a debt paid, without inconveniencing an employer any more than is necessary. There needs to be definitions, explanations and clarity brought to the form. This is not something that can be done overnight, therefore the amendment to send this to an interim committee is an excellent one.

The portion of the amendment that I am in opposition to is the increase in the fee paid to the Garnishee. This is a 250% increase. I would ask that this portion of the amendment simply be included in the interim study.

Y. Costa Richardson
Operator's Signature

10/16/03
Date

Testimony Remarks
House Bill No. ~~1475~~ 1427

Thank You for the opportunity to speak to you today giving you an employers perspective on some elements related to the garnishment issue.

First I wish to say that, in principle, I disagree with the concept of involving myself as an employer in the business of debt collection and by law myself potentially becoming legally liable for an employee's debt of which I have had no responsibility for.

With that said, I also strongly believe that people should be accountable for their debts, and understand the need to utilize the employer in this process.

I am here today to speak to the issue of disclosure fees and to the confusion of the garnishment order itself.

I believe that if we need to involve the employer it should be made easier to comply and at little to no expense to the employer.

A copy of a summons and disclosure have been provided for your reference.

On the issue of disclosure fees, the law currently calls for the plaintiff to pay to the employer, as garnishee, a sum of \$10.00 for making an affidavit of disclosure.

Because of the potential liability, at a cost, an employer may need the advice of legal council, you may incur expense in satisfying the need for a notary as is required, and some employers may need the services of their accountant in the completion of the disclosure and maintaining future compliance of the order. This does not even take in consideration the time element involved in complying with the order if you are able to handle it yourself.

I believe this should not be considered a cost of doing business to employers. Just as the banking industry is not asked to absorb the cost of handling NSF checks as a cost of doing business.

This amendment calls for an increase of the disclosure fee to \$25.00. This in most cases does not cover potential expenses an employer may incur, but it is a step loser to that end.

Testimony Remarks
House Bill No. ~~1475~~ 1427

This fee ultimately is passed on to the defendant but they are the party responsible for this situation and are informed of the costs associated to the garnishment action. As I assume all other avenues available to the Plaintiff have proved to be unsuccessful.

On the element of confusion. When you first are exposed to this unknown responsibility by being served this summons, you notice that this is a legal document and because of the potentially liability to you for the employees debt you take this very seriously.

You have many questions as you go through the order. You can come to believe that if you mess up in some way you will be responsible for the debt and even wonder if the plaintiff sees this as a more successful way to collect the debt by collecting it from you, the employer.

The summons requires that the defendant proves to the employer within 10 days a verified list of dependents. What's a verified list? what is the definition of a dependent? are social security cards to be shown to me? am I supposed to forward this list to the plaintiff?

The disclosure is confusing. For example paragraph

#4 SETOFF ??

#5 ADVERSE INTEREST

#10 Do I fill this out for each pay period? Make copies and have them all notarized and deliver to the plaintiff each time?

By law employers are put in the middle of this situation and being held responsible for collecting debt for a plaintiff. This process needs to become more clear and easier for the employer to execute.

Thus we are proposing a Council Study be enacted to aid in this endeavor.

Thank you and I would appreciate your support for this bill.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

CIVIL CASE NO.

vs.

Plaintiff,)

Defendant,)

and

TACO JOHNS

Garnishee.)

GARNISHMENT DISCLOSURE -
180 DAYS CONTINUING LIEN

I am the _____ of the Garnishee and duly
authorized to disclose for the Garnishee.

On the _____ day of _____, 200____, the time of service of
Garnishee Summons on the Garnishee, there was due and owing the
Defendant from the Garnishee the following:

1. EARNINGS. For the purpose of garnishment, "earnings" means compensation payable for personal service whether called wages salary, commission, bonus or otherwise, and include periodic payments under a pension or retirement program. "Earnings" does not include social security benefits or veteran's disability pension benefits, except when the benefits are subject to garnishment to enforce any order for the support of a dependent child. "Earnings" includes military retirement pay. "Disposable earnings" means that part of the earnings of an individual that remains after the deduction from those earnings of amounts required by law to be withheld. If the Garnishee Summons was served upon you at the time when earnings from a prior completed pay period were owing, but not paid, complete the following disclosure for earning from both the past pay period and the current pay period.
 - a. Enter on the line below the amount of disposable earnings earned or to be earned by the Defendant within the Defendant's pay periods which may be subject to garnishment.

 - b. Enter on the line below forty times the hourly federal minimum wage times the number of workweeks within the Defendant's pay periods which may be subject to garnishment. When pay periods consist of other than whole number of workweeks, each day of a pay period in excess of the number of completed workweeks shall be counted as a fraction of a workweek equal to the number of workdays divided by the number of workdays in the normal workweek.

ND73(c:02)

c. Enter on the line below the difference obtained (never less than zero) when line b is subtracted from line a. If the amount is less than zero, skip lines d through g and enter zero on line h.

d. Enter on the line below 25% of line a.

e. Enter on the line below the lesser of line c and line d.

f. Enter on the line below the number of dependant family member living with the defendant (if properly claimed within ten (10) days after receipt of the garnishee summons).

g. Enter on the line below an amount equal to the number of dependants (line f) times twenty dollars times the number of workweeks used to compute line b.

h. Enter on the line below the difference (never less than zero) when line g is subtracted from line e.

2. MONEY. Enter on the line below any amounts due and owing Defendant, except earnings, from the garnishee.

3. PROPERTY. Describe on the line below any personal property, instruments, or papers belonging to the Defendant and in the possession of the garnishee.

4. SETOFF. If the amount set forth on lines 1-h, 2 and 3 is zero, skip lines 5 through 8 and go to line 9. If the amount set forth on lines 1-h, 2 and 3 is more than zero, enter on the line below any setoff, defense, lien or claim that the garnishee claims against the the amount set forth on lines 1-h, 2 and 3. Allege the facts by which the setoff, defense, lien or claim is claimed. (Any indebtedness to a garnishee-employer incurred by the judgment debtor within ten (10) days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

ND73

Salvatore Riccio
Operator's Signature

10/16/03
Date

5. ADVERSE INTEREST. Enter on the line below any amounts claimed by by other persons by reason of ownership or interest in the Defendant's property. State the names and addresses of the persons and nature of their claim, if known. (Any assignment of wages made by the Defendant within ten (10) days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

6. Enter on the line below the total of lines 4 and 5.

7. Enter on the line below the difference obtained (never less than zero) when line 6 is subtracted from the sum of line 1-h, 2 & 3.

8. Enter on the line below 110 percent of the amount of the judgment creditor's judgment which remains unpaid.

9. If the amount set forth on lines 1-h, 2 & 3 is zero, enter zero on the line below. If the amount set forth on lines 1-h, 2 & 3 is more than zero, enter on the lines below the lesser of line 7 and line 8. As garnishee, you are hereby instructed to retain this amount only if it is \$10.00 or more.

10. If this form was completed for the plaintiffs for the immediately preceeding pay period and the amount on line 9 was less than \$10, the answers to disclosure for the immediately preceeding pay period remain in effect and the garnishee is not required to answer the questions in the garnishment disclosure for the subsequent pay periods until the amount on line 9 is \$10 or more.

Garnishee will continue to hold the nonexempt portion of the Defendant's earnings as they accrue through the last payroll period ending on or before 180 days from the effective date of the garnishee summons, or until the employment relationship terminates, whichever first occurs.

Dated: _____

Authorized Garnishee Representative

Title (_____) Phone Number

Subscribed and sworn before me this ____ day of _____, 200__.

Notary Public

County, North Dakota
My Commission Expires: _____

(seal)

ND73(C:02)

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La Costa Rickford
Operator's Signature

10/16/03
Date

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF BURLEIGH

SOUTH CENTRAL JUDICIAL DISTRICT

CIVIL CASE NO.

vs.

Plaintiff,)

GARNISHEE SUMMONS AND
NOTICE TO DEFENDANT
180 DAY CONTINUING LIEN

and

Defendant,)

TACO JOHNS

Garnishee.)

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED GARNISHEE:

You are hereby summoned and required to serve upon the plaintiff or the plaintiff's attorney, within twenty (20) days after service of this Summons upon you, written disclosure under oath, setting forth the amount of any debt you may owe to the Defendant and a description of any property, money or effects owned by the Defendant that are in your possession. Your disclosure need not exceed (110%).
The Judgment amount that remains unpaid is (100%), and Judgment was entered against the Defendant on

7 Failure to disclose and withhold may make you liable to the Plaintiff for the sum of \$ (110%).

You shall retain the Defendant's nonexempt property, money and effects in your possession until a Writ of Execution is served upon you, until the Defendant authorizes release to the Plaintiff, or until the expiration of 270 days from the date of service of this Summons upon you. If no Writ of Execution has been served upon you, or no agreement has been made for payment within 270 days, the garnishment shall end and any property or funds held by you shall be returned to the Defendant if Defendant is otherwise entitled to their possession.

The Defendant must provide to the garnishee within ten (10) days after receipt of the garnishee summons a verified list of the dependent family members who reside with the defendant (if any) and their social security number to have the maximum amount subject to garnishment reduced under subsection 2 of section 32-09.1-03. Failure of the Defendant to provide a verified list to the garnishee with ten (10) days after the receipt of the garnishee summons is conclusive with respect to whether the Defendant claims no family members.

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Any assignment of wages by the Defendant or indebtedness to you incurred by the Defendant within ten (10) days before the receipt of the first garnishment on a debt is void and should be disregarded.

You may not discharge the Defendant because the Defendant's earnings are subject to garnishment.

Dated: _____

Law Office of
Attorney for the Plaintiff

Bismarck, ND 58502
(701)

NOTICE TO DEFENDANT

TO:

BISMARCK, ND 58504-5968

The Garnishee Summons, Garnishment Disclosure form, and written Interrogatories, if any, that are served upon you, were also served upon the garnishee:

TACO JOHNS
1911 N. 13TH ST
BISMARCK, ND 58501

Dated: _____

Law Office of
Attorney for the Plaintiff

Bismarck, ND 58502
(701)

ND73

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La Costa Rickford
Operator's Signature

10/16/03
Date

Joel Gilbertson-

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1427

Page 1, line 1, after "sections" insert "13-05-02,"

Page 1, line 2, after "relating to" insert "exemptions to collection agency license requirements, and"

Page 1, after line 4, insert:

"SECTION 1. AMENDMENT. Section 13-05-02 of the North Dakota Century Code is amended and reenacted as follows:

13-05-02. Collection agency license required to collect claims. Except as otherwise herein provided, no person other than a collection agency licensed and authorized under this chapter may advertise or solicit either in print, by letter, in person, or otherwise, the right to collect or receive payment of any claim for another or sell or give away collection letters as demand forms in the state of North Dakota. As used in this chapter, the term "collection agency" does not include attorneys at law, licensed real estate brokers, banks, trust companies, building and loan associations, abstract companies doing an escrow business, creditors collecting their own debts, individuals or firms who purchase or take accounts receivable for collateral purposes, individuals employed in the capacity of a creditman upon the staff of an employer not engaged in the business of a collection agency, or any public officer, receiver, or trustee acting under the order of a court, or any person for whom the commissioner of financial institutions determines by order or by rule that the protection of the public health, safety and welfare does not require registration with the department as a collection agency. In order to be eligible for a determination that registration is not required based on public health, safety and welfare, both the person acting as a debt collector and the person for whom that person is acting must be related by common ownership or affiliated by corporate control, the person acting as a debt collector must do so only for persons to whom it is so related or affiliated and the principal business of that person is not the collection of debts. The commissioner may charge a one-time application fee of up to three hundred dollars for those seeking such a determination. A person may not be considered to be engaged in collection activity within this state if that person's activities are limited to collecting debts from debtors located in this state by means of interstate communications, including telephone, mail, or facsimile transmission from the person's location in another state if the person is licensed and bonded in that state and the state has enacted similar legislation."

Renumber accordingly

Joel Gilbertson
Operator's Signature

10/16/03
Date