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ENGROSSED SUBSTITUTE SENATE BILL 6295

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State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Heavey, McCaslin, Johnson, T. Sheldon, Swecker, Long and Deccio)

Read first time 1/25/00.

1 AN ACT Relating to garnishment proceedings; amending RCW 6.27.005,  
2 6.27.090, 6.27.100, 6.27.190, 6.27.250, and 6.27.320; and adding a new  
3 section to chapter 6.27 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 6.27.005 and 1998 c 227 s 1 are each amended to read  
6 as follows:

7 The legislature recognizes that a garnishee (~~(defendant)~~) has no  
8 responsibility for the situation leading to the garnishment of a  
9 debtor's wages, funds, or other property, but that the garnishment  
10 process is necessary for the enforcement of obligations debtors  
11 otherwise fail to honor, and that garnishment procedures benefit the  
12 state and the business community as creditors. The state should take  
13 whatever measures that are reasonably necessary to reduce or offset the  
14 administrative burden on the garnishee (~~(defendant)~~) consistent with  
15 the goal of effectively enforcing the debtor's unpaid obligations.

16 **Sec. 2.** RCW 6.27.090 and 1988 c 231 s 24 are each amended to read  
17 as follows:

1 (1) The writ of garnishment shall set forth in the first paragraph  
2 the amount that garnishee is required to hold, which shall be an amount  
3 determined as follows: (a)(i) If after judgment, the amount of the  
4 judgment remaining unsatisfied on the clerk of the court's execution  
5 docket, if any, plus interest to the date of garnishment, as provided  
6 in RCW 4.56.110, plus taxable costs and attorney's fees, or (ii) if  
7 before judgment, the amount prayed for in the complaint plus estimated  
8 taxable costs of suit and attorneys' fees, together with, (b) whether  
9 before or after judgment, estimated costs of garnishment as provided in  
10 subsection (2) of this section. The court may, by order, set a higher  
11 amount to be held upon a showing of good cause by plaintiff.

12 (2) Costs recoverable in garnishment proceedings, to be estimated  
13 for purposes of subsection (1) of this section, include filing fee,  
14 service and affidavit fees, postage and costs of certified mail, answer  
15 fee or fees, other fees legally chargeable to a plaintiff in the  
16 garnishment process, and a garnishment attorney fee in the amount of  
17 the greater of fifty dollars or ten percent of (a) the amount of the  
18 judgment remaining unsatisfied or (b) the amount prayed for in the  
19 complaint. The garnishment attorney fee shall not exceed two hundred  
20 fifty dollars.

21 **Sec. 3.** RCW 6.27.100 and 1998 c 227 s 3 are each amended to read  
22 as follows:

23 The writ shall be substantially in the following form: PROVIDED,  
24 That if the writ is issued under a court order or judgment for child  
25 support, the following statement shall appear conspicuously in the  
26 caption: "This garnishment is based on a judgment or court order for  
27 child support": AND PROVIDED FURTHER, That if the garnishment is for  
28 a continuing lien, the form shall be modified as provided in RCW  
29 6.27.340: AND PROVIDED FURTHER, That if the writ is not directed to an  
30 employer for the purpose of garnishing a defendant's earnings, the  
31 paragraph relating to the earnings exemption may be omitted and the  
32 paragraph relating to the deduction of processing fees may be omitted:

1 "IN THE ((SUPERIOR)) . . . . . COURT  
2 OF THE STATE OF WASHINGTON IN AND FOR  
3 THE COUNTY OF . . . . .

4 . . . . . ,  
5 Plaintiff,

No. . . . .

6 vs.

7 . . . . . ,  
8 Defendant

WRIT OF  
GARNISHMENT

9 . . . . . ,  
10 Garnishee

11 THE STATE OF WASHINGTON TO:

Garnishee

12 AND TO:

13 Defendant

14 The above-named plaintiff has applied for a writ of garnishment  
15 against you, claiming that the above-named defendant is indebted to  
16 plaintiff and that the amount to be held to satisfy that indebtedness  
17 is \$ . . . . . , consisting of:

18	Balance on Judgment or Amount of Claim	\$ . . . . .
19	Interest under Judgment from . . . . . to . . . . .	\$ . . . . .
20	Taxable Costs and Attorneys' Fees	\$ . . . . .
21	Estimated Garnishment Costs:	
22	Filing Fee	\$ . . . . .
23	Service and Affidavit Fees	\$ . . . . .
24	Postage and Costs of Certified Mail	\$ . . . . .
25	Answer Fee or Fees (If applicable)	\$ . . . . .
26	Garnishment Attorney Fee	\$ . . . . .
27	Other	\$ . . . . .

28 YOU ARE HEREBY COMMANDED, unless otherwise directed by the court or  
29 by this writ, not to pay any debt, whether earnings subject to this  
30 garnishment or any other debt, owed to the defendant at the time this  
31 writ was served and not to deliver, sell, or transfer, or recognize any  
32 sale or transfer of, any personal property or effects of the defendant  
33 in your possession or control at the time when this writ was served.  
34 Any such payment, delivery, sale, or transfer is void to the extent

1 necessary to satisfy the plaintiff's claim and costs for this writ with  
2 interest.

3 YOU ARE FURTHER COMMANDED to answer this writ by filling in the  
4 attached form according to the instructions in this writ and in the  
5 answer forms and, within twenty days after the service of the writ upon  
6 you, to mail or deliver the original of such answer to the court, one  
7 copy to the plaintiff or the plaintiff's attorney, and one copy to the  
8 defendant, in the envelopes provided.

9 If, at the time this writ was served, you owed the defendant any  
10 earnings (that is, wages, salary, commission, bonus, or other  
11 compensation for personal services or any periodic payments pursuant to  
12 a pension or retirement program), the defendant is entitled to receive  
13 amounts that are exempt from garnishment under federal and state law.  
14 You must pay the exempt amounts to the defendant on the day you would  
15 customarily pay the compensation or other periodic payment. As more  
16 fully explained in the answer, the basic exempt amount is the greater  
17 of seventy-five percent of disposable earnings or a minimum amount  
18 determined by reference to the employee's pay period, to be calculated  
19 as provided in the answer. However, if this writ carries a statement  
20 in the heading that "This garnishment is based on a judgment or court  
21 order for child support," the basic exempt amount is forty percent of  
22 disposable earnings.

23 IF THIS IS A WRIT FOR A CONTINUING LIEN ON EARNINGS, YOU MAY DEDUCT  
24 A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER  
25 WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY  
26 DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE  
27 SECOND ANSWER.

28 If you owe the defendant a debt payable in money in excess of the  
29 amount set forth in the first paragraph of this writ, hold only the  
30 amount set forth in the first paragraph and any processing fee if one  
31 is charged and release all additional funds or property to defendant.

32 (~~YOUR FAILURE~~) IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED  
33 (~~WILL RESULT IN~~) A JUDGMENT ((BEING)) MAY BE ENTERED AGAINST YOU FOR  
34 THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH  
35 ACCRUING INTEREST((S)), ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE  
36 ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY  
37 JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT  
38 OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR  
39 CONTROL.

1         JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND  
2 FEES INCURRED BY THE PLAINTIFF.

3         Witness, the Honorable . . . . ., Judge of the ((~~Superior~~))  
4 above-entitled Court, and the seal thereof, this . . . . day of  
5 . . . . ., ((19)) 20. . .

6 [Seal]

7 . . . . .	. . . . .
8 Attorney for	Clerk of
9 Plaintiff (or	(( <del>Superior</del> )) <u>the</u>
10 Plaintiff,	Court
11 if no attorney)	
12 . . . . .	. . . . .
13 Address	By
14	. . . . .
15	Address"

16         **Sec. 4.** RCW 6.27.190 and 1997 c 296 s 5 are each amended to read  
17 as follows:

18         The answer of the garnishee shall be signed by the garnishee or  
19 attorney or if the garnishee is a corporation, by an officer, attorney  
20 or duly authorized agent of the garnishee, under penalty of perjury,  
21 and the original delivered, either personally or by mail, to the clerk  
22 of the court that issued the writ, one copy to the plaintiff or the  
23 plaintiff's attorney, and one copy to the defendant. The answer shall  
24 be made on a form substantially as appears in this section, served on  
25 the garnishee with the writ, with minimum exemption amounts for the  
26 different pay periods filled in by the plaintiff before service of the  
27 answer forms: PROVIDED, That, if the garnishment is for a continuing  
28 lien, the answer forms shall be as prescribed in RCW 6.27.340 and  
29 6.27.350: AND PROVIDED FURTHER, That if the writ is not directed to an  
30 employer for the purpose of garnishing the defendant's wages,  
31 paragraphs relating to the earnings exemptions may be omitted.

1 IN THE ((SUPERIOR)) . . . . . COURT  
2 OF THE STATE OF WASHINGTON IN AND FOR  
3 THE COUNTY OF . . . . .

4 . . . . . NO. . . . .

5 Plaintiff

6 vs.

7 ANSWER

8 . . . . . TO WRIT OF

9 Defendant

10 GARNISHMENT

11 . . . . .  
12 . . . . .  
13 Garnishee Defendant

14 On the date the writ of garnishment was issued by the court as  
15 indicated by the date appearing on the last page of the writ, defendant  
16 (check one) . . . was . . . was not employed by garnishee; defendant  
17 (check one) . . . did . . . did not maintain a financial account with  
18 garnishee; and garnishee (check one) . . . did . . . did not have  
19 possession of or control over any funds, personal property, or effects  
20 of defendant.

21 At the time of service of the writ of garnishment on the garnishee  
22 there was due and owing from the garnishee to the above-named defendant  
23 \$ . . . . . (On the reverse side of this answer form, or on an  
24 attached page, give an explanation of the dollar amount stated, or give  
25 reasons why there is uncertainty about your answer.)

26 If the above amount or any part of it is for personal earnings  
27 (that is, compensation payable for personal services, whether called  
28 wages, salary, commission, bonus, or otherwise, and including periodic  
29 payments pursuant to a pension or retirement program): Garnishee has  
30 deducted from this amount \$ . . . . . which is the exemption to which  
31 the defendant is entitled, leaving \$ . . . . . that garnishee holds  
32 under the writ. The exempt amount is calculated as follows:

33	Total compensation due defendant	\$ . . . . .
34	LESS deductions for social security and	
35	withholding taxes and any other	
36	deduction required by law (list	
37	separately and identify)	\$ . . . . .
38	Disposable earnings	\$ . . . . .

39 If the title of this writ indicates that this is a garnishment  
40 under a child support judgment, enter forty percent of disposable

1 earnings: \$ . . . . . This amount is exempt and must be paid to the  
2 defendant at the regular pay time after deducting any processing fee  
3 you may charge.

4 If this is not a garnishment for child support, enter seventy-five  
5 percent of disposable earnings: \$ . . . . . From the listing in  
6 the following paragraph, choose the amount for the relevant pay period  
7 and enter that amount: \$ . . . . . (If amounts for more than one  
8 pay period are due, multiply the preceding amount by the number of pay  
9 periods and/or fraction of pay period for which amounts are due and  
10 enter that amount: \$ . . . . .) The greater of the amounts entered  
11 in this paragraph is the exempt amount and must be paid to the  
12 defendant at the regular pay time after deducting any processing fee  
13 you may charge.

14 Minimum exempt amounts for different pay periods: Weekly  
15 \$ . . . . .; Biweekly \$ . . . . .; Semimonthly \$ . . . . .;  
16 Monthly \$ . . . . .

17 List all of the personal property or effects of defendant in the  
18 garnishee's possession or control when the writ was served. (Use the  
19 reverse side of this answer form or attach a schedule if necessary.)

20 An attorney may answer for the garnishee.

21 Under penalty of perjury, I affirm that I have examined this  
22 answer, including accompanying schedules, and to the best of my  
23 knowledge and belief it is true, correct, and complete.

24 . . . . .  
25 Signature of \_\_\_\_\_ Date \_\_\_\_\_  
26 Garnishee Defendant

28 . . . . .  
29 Signature of person \_\_\_\_\_ Connection with \_\_\_\_\_  
30 answering for \_\_\_\_\_ garnishee  
31 \_\_\_\_\_  
32 garnishee  
33

34 . . . . .  
35 . . . . .  
36 Address of Garnishee

1       **Sec. 5.** RCW 6.27.250 and 1988 c 231 s 32 are each amended to read  
2 as follows:

3       (1)(a) If it appears from the answer of the garnishee or if it is  
4 otherwise made to appear that the garnishee was indebted to the  
5 defendant in any amount, not exempt, when the writ of garnishment was  
6 served, and if the required return or affidavit showing service on or  
7 mailing to the defendant is on file, the court shall render judgment  
8 for the plaintiff against such garnishee for the amount so admitted or  
9 found to be due to the defendant from the garnishee, unless such amount  
10 exceeds the amount of the plaintiff's claim or judgment against the  
11 defendant with accruing interest and costs and attorney's fees as  
12 prescribed in RCW 6.27.090, in which case it shall be for the amount of  
13 such claim or judgment, with said interest, costs, and fees. In the  
14 case of a superior court garnishment, the court shall order the  
15 garnishee to pay to the plaintiff through the registry of the court the  
16 amount of the judgment against the garnishee, the clerk of the court  
17 shall note receipt of any such payment, and the clerk of the court  
18 shall disburse the payment to the plaintiff. In the case of a district  
19 court garnishment, the court shall order the garnishee to pay the  
20 judgment amount directly to the plaintiff. In either case, the court  
21 shall inform the garnishee that failure to pay the amount may result in  
22 execution of the judgment, including garnishment.

23       (b) If, prior to judgment, the garnishee tenders to the plaintiff  
24 or to the court any amounts due, such tender will support judgment  
25 against the garnishee in the amount so tendered, subject to any  
26 exemption claimed within the time required in RCW 6.27.160 after the  
27 amounts are tendered, and subject to any controversion filed within the  
28 time required in RCW 6.27.210 after the amounts are tendered. Any  
29 amounts tendered to the court by or on behalf of the garnishee or the  
30 defendant prior to judgment shall be disbursed to the party entitled to  
31 same upon entry of judgment or order, and any amounts so tendered after  
32 entry of judgment or order shall be disbursed upon receipt to the party  
33 entitled to same.

34       (2) If it shall appear from the answer of the garnishee and the  
35 same is not controverted, or if it shall appear from the hearing or  
36 trial on controversion or by stipulation of the parties that the  
37 garnishee is indebted to the principal defendant in any sum, but that  
38 such indebtedness is not matured and is not due and payable, and if the  
39 required return or affidavit showing service on or mailing to the



1 defendant is on file, the court shall make an order requiring the  
2 garnishee to pay such sum into court when the same becomes due, the  
3 date when such payment is to be made to be specified in the order, and  
4 in default thereof that judgment shall be entered against the garnishee  
5 for the amount of such indebtedness so admitted or found due. In case  
6 the garnishee pays the sum at the time specified in the order, the  
7 payment shall operate as a discharge, otherwise judgment shall be  
8 entered against the garnishee for the amount of such indebtedness,  
9 which judgment shall have the same force and effect, and be enforced in  
10 the same manner as other judgments entered against garnishees as  
11 provided in this chapter: PROVIDED, That if judgment is rendered in  
12 favor of the principal defendant, or if any judgment rendered against  
13 the principal defendant is satisfied prior to the date of payment  
14 specified in an order of payment entered under this subsection, the  
15 garnishee shall not be required to make the payment, nor shall any  
16 judgment in such case be entered against the garnishee.

17 (3) The court shall, upon request of the plaintiff at the time  
18 judgment is rendered against the garnishee or within one year  
19 thereafter, or within one year after service of the writ on the  
20 garnishee if no judgment is taken against the garnishee, render  
21 judgment against the defendant for recoverable garnishment costs and  
22 attorney fees. However, if it appears from the answer of garnishee or  
23 otherwise that, at the time the writ was issued, the garnishee held no  
24 funds, personal property, or effects of the defendant and, in the case  
25 of a garnishment on earnings, the defendant was not employed by the  
26 garnishee, or, in the case of a writ directed to a financial  
27 institution, the defendant maintained no account therein, then the  
28 plaintiff may not be awarded judgment against the defendant for such  
29 costs or attorney fees.

30 NEW SECTION. Sec. 6. A new section is added to chapter 6.27 RCW  
31 to read as follows:

32 The judgment on garnishee's answer or tendered funds, and for costs  
33 against defendant, and the order to pay funds shall be substantially in  
34 the following form:

35 IN THE . . . . COURT OF THE STATE OF WASHINGTON IN AND FOR THE  
36 COUNTY OF . . . .

37 . . . . . NO. . . . .

1 Plaintiff

2 vs.

JUDGMENT AND ORDER

TO PAY

(Clerk's Action Required)

3  
4  
5 . . . . .

6 Defendant

7 . . . . .

8 Garnishee

9 Judgment Summary

10 Judgment Creditor . . . . .

11 Garnishment Judgment Debtor . . . . .

12 Garnishment Judgment Amount . . . . .

13 Costs Judgment Debtor . . . . .

14 Costs Judgment Amount . . . . .

15 Judgments to bear interest at . . . . . %

16 Attorney for Judgment Creditor . . . . .

17 IT APPEARING THAT garnishee was indebted to defendant in the  
18 nonexempt amount of \$ . . . . .; that at the time the writ of  
19 garnishment was issued defendant was employed by or maintained a  
20 financial institution account with garnishee, or garnishee had in its  
21 possession or control funds, personal property, or effects of  
22 defendant; and that plaintiff has incurred recoverable costs and  
23 attorney fees of \$. . . .; now, therefore, it is hereby

24 ORDERED, ADJUDGED, AND DECREED that plaintiff is awarded judgment  
25 against garnishee in the amount of \$. . . .; that plaintiff is awarded  
26 judgment against defendant in the amount of \$ . . . . . for  
27 recoverable costs; that, if this is a superior court order, garnishee  
28 shall pay its judgment amount to plaintiff through the registry of the  
29 court, and the clerk of the court shall note receipt thereof and  
30 forthwith disburse such payment to plaintiff; that, if this is a

1 district court order, garnishee shall pay its judgment amount to  
2 plaintiff directly or through plaintiff's attorney, and if any payment  
3 is received by the clerk of the court, the clerk shall forthwith  
4 disburse such payment to plaintiff. Garnishee is advised that the  
5 failure to pay its judgment amount may result in execution of the  
6 judgment, including garnishment.

7 DONE IN OPEN COURT this . . . . . day of . . . . , 20. .

8 . . . . .  
9 Judge/Court Commissioner

10 Presented by:

11 . . . . .  
12 Attorney for Plaintiff

13 **Sec. 7.** RCW 6.27.320 and 1969 ex.s. c 264 s 31 are each amended to  
14 read as follows:

15 In any case where garnishee has answered that it is holding funds  
16 or property belonging to defendant and plaintiff shall obtain  
17 satisfaction of ((his)) the judgment and payment of recoverable  
18 garnishment costs and attorney fees from a source other than the  
19 garnishment, upon written demand of the defendant or the garnishee, it  
20 shall be the duty of plaintiff to obtain an order dismissing the  
21 garnishment and to serve it upon the garnishee within twenty days after  
22 the demand or the satisfaction of judgment and payment of costs and  
23 fees, whichever shall be later. In the event of the failure of  
24 plaintiff to obtain and serve such an order, if garnishee continues to  
25 hold such funds or property, defendant shall be entitled to move for  
26 dismissal of the garnishment and shall further be entitled to a  
27 judgment against plaintiff of one hundred dollars plus defendant's  
28 costs and damages. Dismissal may be on ex parte motion of the  
29 plaintiff.

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