

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 1, 2019

Committee on Finance.

After consideration on the merits, the Committee recommends the following:

HB19-1189 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 5, line 1, strike "FIFTEEN" and substitute
- 2 "TWENTY".
- 3 Page 5, line 4, strike "FIFTY" and substitute "FORTY".
- 4 Page 5, line 8, strike "FIFTY" and substitute "FORTY".
- 5 Page 5, line 23, strike "GARNISHMENT" and substitute "GARNISHMENT,
- 6 TOGETHER WITH ANY OTHER INCOME RECEIVED BY THE JUDGMENT
- 7 DEBTOR'S FAMILY," and after "ACTUAL' insert "AND NECESSARY".
- 8 Page 5, line 26, after the period, insert "IN MAKING THIS DETERMINATION,
- 9 THE LIVING EXPENSES THE COURT MUST CONSIDER INCLUDE, BUT ARE NOT
- 10 LIMITED TO, THE FOLLOWING: RENT OR MORTGAGE; UTILITIES; FOOD AND
- 11 HOUSEHOLD SUPPLIES; MEDICAL AND DENTAL EXPENSES; CHILD CARE;
- 12 CLOTHING; EDUCATION; TRANSPORTATION; AND MAINTENANCE, ALIMONY,
- 13 OR CHILD SUPPORT."
- 14 Page 6, strike lines 17 and 18 and substitute:
- 15 "(c) THE AMOUNT OF THE JUDGMENT UPON WHICH THE JUDGEMENT
- 16 CREDITOR BASES THE CONTINUING GARNISHMENT;"
- 17 Page 6, line 22, strike "SECTION;" and substitute "SECTION AND THAT MAY
- 18 BE INCORPORATED INTO AND MADE A PART OF THE WRIT OF

- 1 GARNISHMENT;".
- 2 Page 6, line 24, strike "SECTION." and substitute "SECTION AND THAT IS
3 INCORPORATED INTO AND MADE A PART OF THE NOTICE REQUIRED BY
4 SUBSECTION (2)(e) OF THIS SECTION."
- 5 Page 6, line 26, strike "FORM." and substitute "FORM AND CONSPICUOUSLY
6 LABELED:".
- 7 Page 7, strike lines 3 through 6 and substitute "YOU ARE GETTING THIS
8 NOTICE BECAUSE A COURT HAS RULED THAT YOU OWE THE JUDGMENT
9 CREDITOR, WHO IS CALLED "CREDITOR" IN THIS NOTICE, MONEY.
10 CREDITOR HAS STARTED A LEGAL PROCESS".
- 11 Page 7, line 13, strike "FORM." and substitute "NOTICE."
- 12 Page 7, lines 18 and 19, strike "(INSERT ADDRESS PROVIDED BY
13 CREDITOR)." and substitute "THE ADDRESS AT THE VERY BEGINNING OF
14 THIS FORM."
- 15 Page 7, line 20, strike "FOURTEEN" and substitute "14".
- 16 Page 7, line 23, strike "SEVEN" and substitute "7".
- 17 Page 8, strike line 1 and substitute "THE AMOUNT THE COURT HAS RULED
18 THAT YOU CURRENTLY OWE IS LISTED AT THE TOP OF THE WRIT OF
19 GARNISHMENT."
- 20 Page 8, line 2, strike "AMOUNT)".
- 21 Page 8, line 3, strike "CREDITOR SAYS".
- 22 Page 8, line 4, strike "THAT THE" and substitute "THE".
- 23 Page 8, line 5, strike "(INSERT RATE) %." and substitute "LISTED AT THE
24 TOP OF THE WRIT OF GARNISHMENT."
- 25 Page 8, line 10, strike "30" and substitute "14" and strike "YOU RECEIVE"
26 and substitute "THE DAY THE PERSON WHO PAYS YOU SENDS YOU".
- 27 Page 8, strike line 12 and substitute "FOR UP TO 6 MONTHS. IF THE DEBT

- 1 IS NOT PAID OFF OR NOT LIKELY TO BE PAID OFF BY THAT TIME, CREDITOR
2 MAY SERVE ANOTHER GARNISHMENT."
- 3 Page 8, strike line 23 and substitute "4. **DO I HAVE OPTIONS?**".
- 4 Page 8, strike line 24 and substitute "YES, YOU HAVE SEVERAL OPTIONS,
5 HERE ARE THREE OF THEM:".
- 6 Page 8, line 25, strike "TALK" and substitute "A. YOU CAN TALK".
- 7 Page 9, line 1, strike "HELP YOU" and substitute "PROVIDE YOU HELP WITH
8 RESOURCES TO".
- 9 Page 9, line 3, strike "CONTACT" and substitute "B. YOU CAN CONTACT".
- 10 Page 9, line 5, strike "THIS IS" and substitute "THE".
- 11 Page 9, strike lines 6 and 7 and substitute "INFORMATION IS ON THE FIRST
12 PAGE OF THE WRIT OF GARNISHMENT."
- 13 Page 9, line 8, strike "REQUEST" and substitute "C. YOU CAN REQUEST".
- 14 Page 9, line 10, strike "SUCH AS WHETHER YOU OWE THE MONEY," and
15 substitute "THE AMOUNT THE COURT HAS RULED THAT YOU OWE,".
- 16 Page 9, line 17, after "YOU" insert "BEFORE GOING TO COURT. YOU MUST
17 DO THIS".
- 18 Page 9, line 20, strike "ALSO, IF" and substitute "IF YOU WANT A COURT
19 HEARING, YOU MUST REQUEST ONE. IF".
- 20 Page 10, line 2, strike "30" and substitute "14".
- 21 Page 10, line 3, strike "YOU RECEIVE" and substitute "THE DAY THE
22 PERSON WHO PAYS YOU SENDS YOU".
- 23 Page 10, after line 5 insert:
24 "6. **HOW DOES GARNISHMENT WORK IN COLORADO?**
25 ONLY A PORTION OF YOUR PAY CAN BE GARNISHED.
26 THE AMOUNT THAT CAN BE WITHHELD FROM YOUR PAY
27 DEPENDS ON SOMETHING CALLED "DISPOSABLE EARNINGS".

1 YOUR DISPOSABLE EARNINGS ARE WHAT IS LEFT AFTER
2 DEDUCTIONS FROM YOUR GROSS PAY FOR TAXES AND
3 CERTAIN HEALTH INSURANCE COSTS. YOUR PAYCHECK STUB
4 SHOULD TELL WHAT YOUR DISPOSABLE EARNINGS ARE.

5 THE AMOUNT OF YOUR DISPOSABLE EARNINGS THAT
6 CAN BE GARNISHED IS DETERMINED BY COMPARING TWO
7 NUMBERS: (1) 20% OF YOUR DISPOSABLE EARNINGS AND (2)
8 THE AMOUNT BY WHICH YOUR DISPOSABLE EARNINGS
9 EXCEED 40 TIMES THE MINIMUM WAGE. THE SMALLER OF
10 THESE TWO AMOUNTS WILL BE DEDUCTED FROM YOUR PAY.

11 IF YOU THINK THAT YOUR EARNINGS AFTER
12 GARNISHMENT ARE NOT ENOUGH TO SUPPORT YOURSELF
13 AND ANY MEMBERS OF YOUR FAMILY THAT YOU SUPPORT,
14 YOU CAN TRY TO HAVE THE AMOUNT OF YOUR DISPOSABLE
15 EARNINGS THAT ARE GARNISHED FURTHER REDUCED. THIS
16 IS DISCUSSED EARLIER IN THIS NOTICE UNDER 4. **DO I HAVE**
17 **OPTIONS?**

18 YOUR EMPLOYER CANNOT FIRE YOU BECAUSE YOUR
19 EARNINGS HAVE BEEN GARNISHED. IF YOUR EMPLOYER
20 DOES THIS IN VIOLATION OF YOUR LEGAL RIGHTS, YOU MAY
21 FILE A LAWSUIT WITHIN 91 DAYS OF YOUR FIRING TO
22 RECOVER WAGES YOU LOST BECAUSE YOU WERE FIRED. YOU
23 CAN ALSO SEEK TO BE REINSTATED TO YOUR JOB. IF YOU
24 ARE SUCCESSFUL WITH THIS LAWSUIT, YOU CANNOT
25 RECOVER MORE THAN 6 WEEKS WAGES AND ATTORNEY
26 FEES.

27 BASED ON YOUR MOST RECENT PAYCHECK, THE
28 PERSON WHO PAYS YOU ESTIMATES THAT \$_____ WILL BE
29 WITHHELD FROM EACH PAYCHECK THAT IS SUBJECT TO
30 GARNISHMENT."

31 Page 10, line 8, strike "IS THE NOTICE OF" and substitute "EXPLAINS WAGE
32 GARNISHMENT IN COLORADO; AND".

33 Page 10, strike line 9.

34 Page 10, strike lines 13 through 16 and substitute:
35 "(II) EXEMPTIONS FROM AND LIMITS ON GARNISHMENT AND
36 PROTECTIONS PURSUANT TO THE LAWS OF COLORADO; AND".

37 Renumber succeeding subparagraph accordingly.

- 1 Page 10, line 17, strike "LAST" and substitute "MOST RECENT".
- 2 Page 10, line 21, strike "FOURTEEN" and substitute "SEVEN".
- 3 Page 11, strike lines 1 through 3.
- 4 Renumber succeeding subparagraph accordingly.
- 5 Page 11, strike lines 12 through 14 and substitute "DATE OF THE FIRST
6 PAYDAY THAT IS AT LEAST TWENTY-ONE DAYS AFTER THE GARNISHEE WAS
7 SERVED WITH THE WRIT OF GARNISHMENT IN ACCORDANCE WITH
8 SUBSECTION (1) OF THIS SECTION OR THE FIRST PAYDAY AFTER THE
9 EXPIRATION OF ANY PRIOR EFFECTIVE WRIT OF GARNISHMENT THAT IS AT
10 LEAST TWENTY-ONE DAYS AFTER SERVICE OF THE WRIT ON THE
11 GARNISHEE;".
- 12 Page 12, strike lines 1 through 3 and substitute "OCCURS AT LEAST
13 TWENTY-ONE DAYS AFTER THE GARNISHEE WAS SERVED WITH THE WRIT
14 OF GARNISHMENT IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION
15 OR THE FIRST PAYDAY AFTER THE EXPIRATION OF ANY PRIOR EFFECTIVE
16 WRIT OF GARNISHMENT THAT IS AT LEAST TWENTY-ONE DAYS AFTER
17 SERVICE OF THE WRIT ON THE GARNISHEE."
- 18 Page 12, after line 11 insert:
19 **"SECTION 6.** In Colorado Revised Statutes, 13-54.5-108, **amend**
20 (1)(a) as follows:
21 **13-54.5-108. Judgment debtor to file written objection or**
22 **claim of exemption.** (1) (a) In a case of continuing garnishment where
23 the judgment debtor objects to the calculation of the amount of exempt
24 earnings, the judgment debtor shall have seven days from receipt of the
25 copy of the writ of continuing garnishment required by section
26 13-54.5-105 within which to resolve the issue of such miscalculation, by
27 agreement with the garnishee, during which time the garnishee shall not
28 tender any ~~moneys~~ MONEY to the clerk of the court OR JUDGMENT
29 CREDITOR. If such objection is not resolved within seven days and after
30 good faith effort, the judgment debtor may file a written objection with
31 the clerk of the court in which the judgment was entered setting forth with
32 reasonable detail the grounds for such objection. THE JUDGMENT DEBTOR
33 MAY ALSO FILE A WRITTEN OBJECTION WITH THE CLERK OF THE COURT IN
34 WHICH THE JUDGMENT WAS OBTAINED PURSUANT TO SECTION 13-54-104
35 (2)(a)(I)(D). The judgment debtor shall, by certified mail, return receipt

1 requested, deliver immediately a copy of such objection to the judgment
2 creditor or his or her attorney of record."

3 Renumber succeeding section accordingly.

4 Page 12, line 12, strike "**date.**" and substitute "**date - applicability. (1)**".

5 Page 12, after line 21, insert:

6 "(2) This act only applies to all writs of garnishment issued on or
7 after January 1, 2020, regardless of the dates of entry of the judgments
8 upon which the writs of garnishment are based; except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within such period, then the act, item, section, or part will not take effect
12 unless approved by the people at the general election to be held in
13 November 2020 and, in such case, will apply to all writs of garnishment
14 issued on or after the date of the official declaration of the vote thereon
15 by the governor, regardless of the dates of entry of the judgments upon
16 which the writs of garnishment are based."

** *** ** *** **