



2011 ASSEMBLY BILL 182

June 13, 2011 - Introduced by Representatives JACQUE, LITJENS, BALLWEG, BIES, KRUG, LEMAHIEU, NYGREN, THIESFELDT and WEININGER. Referred to Committee on Energy and Utilities.

1 **AN ACT to repeal** 66.0809 (5) (b) 1. and 2. and 66.0809 (5) (c) and (d); **to**
2 **renumber and amend** 66.0809 (5) (b) (intro.); **to amend** 565.30 (5r) (b); and
3 **to create** 800.09 (1m) of the statutes; **relating to:** assignment of income,
4 prizes, and earnings to pay a municipal court judgment and prohibiting
5 municipal electric or water utilities from collecting certain utility arrearages
6 from owners of rental properties as property liens.

Analysis by the Legislative Reference Bureau

Under current law, if a person fails to pay a judgment ordered by a municipal court, the court may do any of the following:

1. Defer any payment of the judgment for a period of time.
2. Allow the person to pay the judgment by making installment payments.
3. Order the person to perform community service work in lieu of paying the judgment.
4. Suspend the person's driving privileges until the judgment is paid, including taking possession of the person's license to drive.

This bill provides the court with another option by allowing the court to issue an order assigning not more than 25 percent of the person's earnings, worker's compensation, pension, and other money due to the person, including lottery prizes, to pay an unpaid judgment.

Under current law, a municipal utility may collect arrearages for utility service provided to lots or parcels of real estate by providing, on October 15, a written notice

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of payment due to the owner or occupant of the real estate. The notice must specify the amount of the arrearage and any penalty and must state the following: 1) that, if payment is not received by November 1, an additional penalty will be assessed; and 2) that, if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit, the municipal utility may use the arrearage collection procedure described above only if the municipal utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due. In addition, the municipal utility may use the arrearage collection procedure only if the owner of the rental property provides the municipal utility with written notification of the name and address of the owner, as well as of the tenant who is responsible for paying for the service. Also, if requested by the municipal utility, the owner must provide the municipal utility with a copy of the rental or lease agreement in which the tenant assumes responsibility for payment of utility charges.

This bill prohibits a municipal utility that provides electric or water service to a rental dwelling unit from using the arrearage collection procedure described above, but only if the owner has provided the municipal utility with written notification of the name and address of the owner, as well as of the tenant who is responsible for paying for the service. A municipal utility may also request a copy of the rental or lease agreement in which the tenant assumes responsibility for payment of utility charges. However, after the owner has provided written notice of the owner's and tenant's names and addresses, the municipal utility may not use the arrearage collection procedure.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0809 (5) (b) (intro.) of the statutes is renumbered 66.0809 (5) (b)
2 and amended to read:

3 66.0809 (5) (b) If this subsection applies, a municipal public utility may not use
4 sub. (3) to collect arrearages incurred after the owner of a rental dwelling unit has
5 provided the utility with written notice under par. (a) ~~only if the municipality~~
6 ~~complies with at least one of the following: 2. and 3.~~

7 **SECTION 2.** 66.0809 (5) (b) 1. and 2. of the statutes are repealed.

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1 **SECTION 3.** 66.0809 (5) (c) and (d) of the statutes are repealed.

2 **SECTION 4.** 565.30 (5r) (b) of the statutes is amended to read:

3 565.30 (**5r**) (b) Subject to par. (c), if the administrator receives a notice under
4 s. 778.30 (2) (a), ~~800.09 (1) (e)~~, or 973.05 (5) (a) of the assignment of lottery prizes
5 under s. 778.30 (1) (c), ~~800.09 (1) (e)~~, or 973.05 (4) (c) and determines that the person
6 subject to the assignment is a winner or assignee of a lottery prize that is payable in
7 installments, the administrator shall withhold the amount of the judgment that is
8 the basis of the assignment from the next installment payment. The administrator
9 shall submit the withheld amount to the court that issued the assignment. At the
10 time of the submittal, the administrator shall charge the administrative expenses
11 related to that withholding and submittal to the winner or assignee of the lottery
12 prize and withhold those expenses from the balance of the installment payment. The
13 administrator shall notify the winner or assignee of the reason that the amount is
14 withheld from the installment payment. If the initial installment payment is
15 insufficient to pay the judgment and administrative expenses, the administrator
16 shall withhold and submit to the court an amount from any additional installment
17 payments until the judgment and administrative expenses are paid in full and the
18 assignment is no longer in effect. The administrative expenses received by the
19 department shall be credited to the appropriation under s. 20.566 (1) (h).

20 **SECTION 5.** 800.09 (1m) of the statutes is created to read:

21 800.09 (**1m**) (a) In this subsection, “employer” includes the state and the
22 political subdivisions of the state.

23 (b) The court may issue an order assigning not more than 25 percent of the
24 defendant’s commissions, earnings, salaries, wages, pension benefits, benefits under
25 ch. 102, and other money due or to be due in the future, but not including lottery

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1 prizes, to the municipal court for payment of the unpaid restitution, forfeiture, costs,
2 fees, or surcharges.

3 (c) Upon entry of the assignment under par. (b), unless the court finds that
4 income withholding is likely to cause the defendant irreparable harm, the court shall
5 provide notice of the assignment by regular mail to the last-known address of the
6 person from whom the defendant receives or will receive money. If the municipal
7 court does not receive the money from the person notified, the court shall provide
8 notice of the assignment to any other person from whom the defendant receives or
9 will receive money. Notice of an assignment under par. (b) shall inform the intended
10 recipient that, if a prior assignment under par. (b) or s. 778.30 (1) or 973.05 (4) has
11 been received relating to the same defendant, the recipient is required to notify the
12 municipal court that sent the subsequent notice of assignment that another
13 assignment has already been received. A notice of assignment shall include a form
14 permitting the recipient to designate on the form that another assignment has
15 already been received.

16 (d) Notice under this subsection may be a notice of the court, a copy of the
17 executed assignment or a copy of that part of the court order that directs payment.

18 (e) For each payment made under the assignment under par. (b), the person
19 from whom the defendant under the order receives money shall receive an amount
20 equal to the person's necessary disbursements, not to exceed \$3, which shall be
21 deducted from the money to be paid to the defendant.

22 (f) A person who receives notice of the assignment under this subsection shall
23 withhold the amount specified in the notice from any money that person pays to the
24 defendant later than one week after receipt of the notice of assignment. Within 5
25 days after the day on which the person pays money to the defendant, the person shall

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1 send the amount withheld to the municipal court of the jurisdiction providing notice.
2 If the person has already received a notice of an assignment under this subsection
3 or s. 778.30 (2) or 973.05 (5), the person shall retain the later assignment and
4 withhold the amount specified in that assignment after the last of any prior
5 assignments is paid in full. Within 10 days of receipt of the later notice, the person
6 shall notify the municipal court that sent the notice that the person has received a
7 prior notice of an assignment under par. (b). Section 241.09 does not apply to
8 assignments under this subsection.

9 (g) If after receipt of notice of assignment under this subsection the person from
10 whom the defendant receives money fails to withhold the money or send the money
11 to the municipal court as provided in this subsection, the person may be proceeded
12 against under the principal action under s. 800.12 for contempt of court or may be
13 proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more
14 than an amount, if the amount exceeds \$50, that is equal to 1 percent of the amount
15 not withheld or sent.

16 (h) If an employer who receives notice of an assignment under this subsection
17 fails to notify the municipal court within 10 days after an employee is terminated or
18 otherwise temporarily or permanently leaves the employer's employment, the
19 employer may be proceeded against under the principal action under s. 800.12 for
20 contempt of court.

21 (i) Compliance by the person from whom the defendant receives money with
22 the order operates as a discharge of the person's liability to the defendant as to that
23 portion of the defendant's commissions, earnings, salaries, wages, benefits, or other
24 money so affected.

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1 (j) No employer may use an assignment under par. (b) as a basis for the denial
2 of employment to a defendant, the discharge of an employee, or any disciplinary
3 action against an employee. An employer who denies employment or discharges or
4 disciplines an employee in violation of this paragraph may be subject to a forfeiture
5 of not more than \$500 and may be required to make full restitution to the aggrieved
6 person, including reinstatement and back pay. Restitution shall be in accordance
7 with s. 973.20. An aggrieved person may apply to the district attorney or to the
8 department of workforce development for enforcement of this paragraph.

9 (k) 1. In this paragraph, "payroll period" has the meaning given in s. 71.63 (5).

10 2. If after an assignment is in effect the defendant's employer changes its
11 payroll period, or the defendant changes employers and the new employer's payroll
12 period is different from the former employer's payroll period, the municipal court
13 may amend the withholding assignment or order so that the withholding frequency
14 corresponds to the new payroll period and the amounts to be withheld reflect the
15 adjustment to the withholding frequency.

16 (L) The municipal court shall provide notice of the amended withholding
17 assignment or order under par. (k) by regular mail to the defendant's employer and
18 to the defendant.

SECTION 6. Initial applicability.

19 (1) The repeal of section 66.0809 (5) (b) 1. and 2. and (5) (c) of the statutes and
20 the renumbering and amendment of section 66.0809 (5) (b) (intro.) of the statutes
21 first apply to arrearages incurred on the effective date of this subsection.
22

23 (2) The treatment of sections 565.30 (5r) (b) and 800.09 (1m) of the statutes first
24 applies to judgments entered on the effective date of this subsection.

