

1977 Senate Bill 83

Date published: August 6, 1977

CHAPTER 80, Laws of 1977

AN ACT to amend 812.04 (2), 812.05 (1) and (2), 812.13 (1) and 812.18 (1) (a) of the statutes, relating to increasing maximum limits for disbursements for small claims garnishment actions.

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

SECTION 1. 812.04 (2) of the statutes is amended to read:

812.04 (2) The garnishee summons shall be substantially in the following form:

STATE OF WISCONSIN

.... COURT

.... COUNTY

A. B., Plaintiff

vs.

C. D., Defendant

and

E. F., Garnishee

The State of Wisconsin, to said garnishee:

You are hereby summoned, as garnishee of the defendant, C. D., and required, within 20 days after the service of this summons and the annexed complaint upon you, exclusive of the day of service, to answer, whether you are indebted to or have in your possession or under your control any property belonging to the defendant.

IF YOU ARE INDEBTED TO THE DEFENDANT, YOU ARE ORDERED TO PAY THE PRESCRIBED SUBSISTENCE ALLOWANCE TO THE DEFENDANT IF EARNINGS ARE THE SUBJECT MATTER OF THIS GARNISHMENT ACTION. YOU ARE ORDERED TO RETAIN FROM THE BALANCE THE AMOUNT OF PLAINTIFF'S CLAIM AND DISBURSEMENTS, NOT TO EXCEED ~~\$15~~ \$25 FOR A SMALL CLAIMS ACTION OR \$30 FOR ALL OTHER ACTIONS, AS STATED IN THE ANNEXED COMPLAINT PENDING THE FURTHER ORDER OF THE COURT. ANY EXCESS INDEBTEDNESS SHALL NOT BE SUBJECT TO THE GARNISHMENT. IF YOU HAVE PROPERTY OR EARNINGS BELONGING TO THE DEFENDANT AND THE AMOUNT OF INDEBTEDNESS RETAINED IS LESS THAN THE AMOUNT CLAIMED AND DISBURSEMENTS, NOT TO EXCEED ~~\$15~~ \$25 FOR A SMALL CLAIMS ACTION OR \$30 FOR ALL OTHER ACTIONS, YOU ARE TO RETAIN THE PROPERTY OR EARNINGS PENDING THE FURTHER ORDER OF THE COURT, EXCEPT AS PROVIDED IN S. 812.18 (3).

You are further required to serve a copy of your answer to the garnishee complaint on the undersigned attorney and to file your original answer with the clerk of this court, within the 20-day period. In case of your failure to answer, judgment will be entered against you for the amount of plaintiff's judgment against said defendant and costs, of which the said defendant will also take notice.

If earnings are the subject matter of this garnishment action, you are required under s. 812.18 (2) to pay over to the principal defendant, on the date when the earnings subject to the garnishment action are normally payable, a subsistence allowance, out of the earnings then owing, in the sum of either 75% of the defendant's disposable earnings or 30 times the federal minimum hourly wage in effect at the time the earnings are payable, whichever is greater.

Dated this day of, 19..

Clerk of Court
(Seal)

Attorney for Plaintiff:

....
P. O. Address

....
....

SECTION 2. 812.05 (1) and (2) of the statutes are amended to read:

812.05 (1) The garnishee complaint in a garnishment action before judgment must allege the existence of one of the grounds for garnishment mentioned in s. 812.02 (1) (a), the amount of the plaintiff's claim against the defendant and disbursements, not to exceed ~~\$15~~ \$25 for a small claims action or \$30 for all other actions, above all offsets, known to the plaintiff, and that plaintiff believes that the named garnishee is indebted to or has property in his or her possession or under his or her control, other than earnings, belonging to the defendant (naming him or her) and that such indebtedness or property is, to the best of plaintiff's knowledge and belief, not exempt from execution.

(2) The garnishee complaint in a garnishment action after judgment must allege the existence of the grounds for garnishment mentioned in s. 812.02 (1) (b), and the name and location of the court, case number, if any, date of entry and amount of the judgment on which the garnishment action is based, the amount of the plaintiff's claim against the defendant and disbursements, not to exceed ~~\$15~~ \$25 for a small claims action or \$30 for all other actions, above all offsets known to the plaintiff, and that plaintiff believes that the named garnishee is indebted to or has property in his or her possession or under his or her control belonging to the defendant (naming him or her) and that such indebtedness or property is, to the best of plaintiff's knowledge and belief, not exempt from execution.

SECTION 3. 812.13 (1) of the statutes is amended to read:

812.13 (1) If the answer shows a debt due to the defendant, the garnishee may pay the ~~same debt~~ or an amount sufficient ~~thereof~~ to cover the plaintiff's claim, as stated in the garnishee complaint and disbursements, not to exceed ~~\$15~~ \$25 for a small claims action or \$30 for all other actions, to the clerk of the court. If prior to so doing, the plaintiff in writing requests the garnishee to pay such sum to such clerk, the garnishee shall, within 5 days after receipt of such request, pay the sum to the clerk. The clerk shall give ~~his a receipt therefor~~ for payment to the garnishee. The payment shall discharge the garnishee of all liability for the amount paid.

SECTION 4. 812.18 (1) (a) of the statutes is amended to read:

812.18 (1) (a) From the time of the service of the summons and complaint upon the garnishee ~~he shall stand,~~ the garnishee shall be liable to the plaintiff for the property and earnings then in his or her possession or under his or her control

belonging to the defendant or in which he or she is interested to the extent of his or her right or interest therein and for all his or her debts due or to become due to the defendant, except such as are exempt from execution or the amount of the subsistence allowance due the defendant under sub. (2) if earnings are the subject matter of the garnishment action, but not in excess of the amount of the plaintiff's claims as disclosed by ~~his~~ the garnishee complaint and disbursements, not to exceed ~~\$15~~ \$25 for a small claims action or \$30 for all other actions.
