

1999 DRAFTING REQUEST

Bill

Received: 12/14/98

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Scott Gunderson (608) 266-3363

By/Representing: Kelly Rindfleisch

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - garn/injunct

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Exemption from garnishment of wages

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 02/14/99	wjackson 02/24/99	martykr 02/25/99	_____	lrb_docadmin 02/25/99		
/2	nelsorp1 03/4/99	wjackson 03/4/99	jfrantze 03/5/99	_____	lrb_docadmin 03/5/99		
/3	nelsorp1 04/29/99	wjackson 04/29/99	martykr 04/30/99	_____	lrb_docadmin 04/30/99		
/4	nelsorp1 05/7/99	wjackson 05/7/99	martykr 05/10/99	_____	lrb_docadmin 05/10/99	lrb_docadmin 05/10/99	

5/10/99 8:15:48 AM
Page 2

FE Sent For:

<END>

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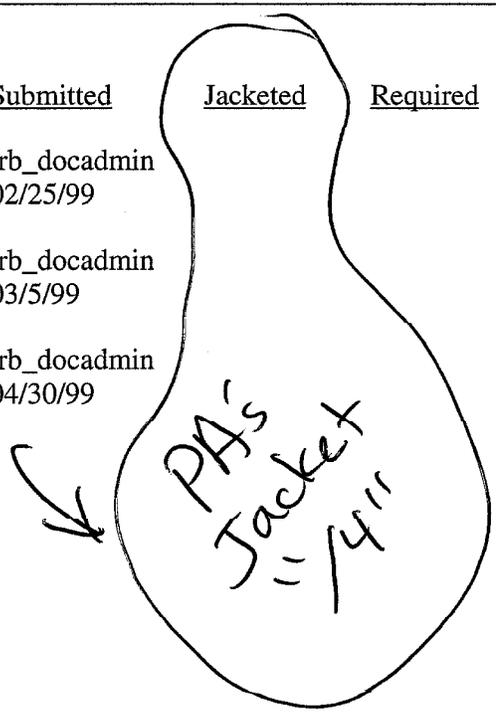
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/2	nelsorp1 03/4/99	wjackson 03/4/99	jfrantze 03/5/99	_____	lrb_docadmin 03/5/99		
/3	nelsorp1 04/29/99	wjackson 04/29/99	martykr 04/30/99	_____	lrb_docadmin 04/30/99		

FE Sent For:

14 5/7 WLJ

dm 5/7 JA
dm 5/7

<END>



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/2	nelsorp1 03/4/99	wjackson 03/4/99	jfrantze 03/5/99	_____	lrb_docadmin 03/5/99		

13 4/29 WLJ *Jm 4/30* *Jm 4/30*

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Subject: **Courts - garn/injunct**

Extra Copies: *100*

Pre Topic:

No specific pre topic given

Topic:

Exemption from garnishment of wages

Instructions:

See Attached

Drafting History:

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/1	nelsorp1 02/14/99	wjackson 02/24/99	martykr 02/25/99	_____	lrb_docadmin 02/25/99		

FE Sent For: *12 WLJ 3/4* *JG 3/5* *flp 3/5*
 <END>

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By/Representing: Kelly Rindfleisch

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May Contact:

Alt. Drafters:

Subject: Courts - garn/injunct

Extra Copies: ALL editors

Topic:

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1?	nelsorp1	1 Wlj 2/18 1 jlg 2/24	Jms 2/25	LS 2/25 Jms 2/25			

FE Sent For:

<END>

Nelson, Robert

From: Rindfleisch, Kelly
Sent: Monday, December 14, 1998 1:38 PM
To: Nelson, Robert
Subject: legislation

Representative Gunderson would like legislation drafted that corrects a problem that one of our constituents discovered dealing with the garnishment of wages. A 1993 Act changed the statutes so that no more than 20% of wages could be garnished unless ordered by the bankruptcy court. This allows the court to order 100% of wages to be garnished. That contradicts federal law which is 25% of wages. The Representative would like legislation drafted that would fix the contradiction between State and Federal law.

If you need more information or have questions, please give me a call at 6-3363.

Kelly
Rep. Scott Gunderson's Office



-CITE-

15 USC Sec. 1673

01/26/98

-EXPCITE-

TITLE 15 - COMMERCE AND TRADE
CHAPTER 41 - CONSUMER CREDIT PROTECTION
SUBCHAPTER II - RESTRICTIONS ON **GARNISHMENT**

-HEAD-

Sec. 1673. Restriction on **garnishment**

-STATUTE-

(a) Maximum allowable **garnishment**

Except as provided in subsection (b) of this section and in section 1675 of this title, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to **garnishment** may not exceed

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 206(a)(1) of title 29 in effect at the time the earnings are payable,

whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b) Exceptions

(1) The restrictions of subsection (a) of this section do not apply in the case of

(A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords

substantial due process, and which is subject to judicial review.

(B) any order of any court of the United States having jurisdiction over cases under chapter 13 of title 11.

(C) any debt due for any State or Federal tax.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to **garnishment** to enforce any order for the support of any person shall not exceed -

(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is used), 50 per centum of such individual's disposable earnings for that week; and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to **garnishment** to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) Execution or enforcement of **garnishment** order or process prohibited

No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

-SOURCE-

(Pub. L. 90-321, title III, Sec. 303, May 29, 1968, 82 Stat. 163; Pub. L. 95-30, title V, Sec. 501(e)(1)-(3), May 23, 1977, 91 Stat. 161, 162; Pub. L. 95-598, title III, Sec. 312(a), Nov. 6, 1978, 92 Stat. 2676.)

or Federal District) Court. The case number of the action in which the judgment is entered is [and a transcript of the judgment was entered in this county in file number]. The creditor's total claim for the unsatisfied portion of this judgment plus statutory interest and costs is \$....

The names and addresses last known to the creditor of the parties to this proceeding are as follows:

Debtor

Name:

Address:

Garnishee

Name:

Address:

Creditor

Name:

Address:

Creditor's Attorney

Name:

Address:

Signature of Creditor or Creditor's Attorney:

Date:

(3) The earnings garnishment form issued by the clerk under s. 812.35 (2) shall be in substantially the following form:

STATE OF WISCONSIN
CIRCUIT COURT:.... County

A.B., Creditor
vs.
C.D., Debtor
and
E.F., Garnishee

File or Reference Number....

EARNINGS
GARNISHMENT

THE STATE OF WISCONSIN, To the garnishee:

The creditor has been awarded a court judgment that has not been paid. As a result, the creditor claims that a total of \$.... is owed by the debtor, as follows:

- A. Unpaid balance on judgment \$....
- B. Unpaid postjudgment interest \$....
- C. Costs of this earnings garnishment (estimated) \$....
- TOTAL \$....

The creditor believes that you will owe the debtor for earnings within the next 13 weeks. If the \$15 fee is tendered with these papers, you are directed by the court to do the following:

DETERMINE WHETHER YOU WILL
OWE THE DEBTOR EARNINGS

1. Determine if you are likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks.
2. If you are not likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, send a statement stating that fact to the creditor by the end of the 7th business day after receiving the earnings garnishment forms.

IF THE DEBTOR SENDS YOU AN ANSWER

3. Whenever you receive a debtor's answer form from the debtor, mail a copy of the answer form to the creditor by the end of the 3rd business day after receipt of that form. Include the date you received the answer form on the copy sent to the creditor.

4. If the debtor's answer form claims a complete exemption or defense, do not withhold or pay to the creditor any part of the debtor's earnings under this garnishment unless you receive an order of the court directing you to do so.

MULTIPLE EARNINGS GARNISHMENTS

5. If the debtor's earnings are already being garnisheed when you receive this earnings garnishment, place this earnings garnishment into effect the pay period after the last of any prior earnings garnishments terminates. Notify the debtor of the amount of the garnishment and notify the creditor of the amount owed on the pending garnishments by the end of the 7th business day after you receive these forms. If there are no prior pending earnings garnishments against the debtor's earnings, place this earnings garnishment into effect the pay period after you receive it.

EARNINGS GARNISHMENTS LAST 13 WEEKS,
EXCEPT FOR PUBLIC EMPLOYEES

6. The garnishment of the earnings of employees of the state of Wisconsin and its political subdivisions remain in effect until the judgment is satisfied. The garnishment of earnings of other employes will affect the debtor's earnings for all pay periods beginning within 13 weeks after you receive it, unless the debtor's earnings are already being garnisheed. If this earnings garnishment is delayed under paragraph 5, above, it will affect the debtor's earnings for all pay periods beginning within 13 weeks after the first day of the pay period that you put this earnings garnishment into effect. If the amount claimed by the creditor is fully paid before the end of the 13 weeks, this earnings garnishment will terminate at that point.

PAYING THE CREDITOR

7. Between 5 and 10 business days after each payday or a pay period affected by this earnings garnishment, pay the creditor 20% of the debtor's disposable earnings for that pay period. Payment is complete upon mailing.

EFFECT OF COURT-ORDERED
ASSIGNMENTS FOR SUPPORT

8. If the debtor has assigned his or her earnings for support by court order, those support payments take priority over this earnings garnishment. If 25% or more of the debtor's disposable earnings is assigned for support by court order, do not pay any part of the debtor's earnings to the creditor. Instead, send the creditor a statement of that fact by the end of the 7th business day after you receive these forms. If less than 25% of the debtor's earnings is assigned for support by court order, the amount the creditor must be paid is reduced so that the total of earnings assigned and garnisheed does not exceed 25% of the debtor's disposable earnings.

EXTENSIONS

9. The debtor and creditor may agree in writing to extend this earnings garnishment for additional pay periods beginning within 13 weeks after this earnings garnishment would otherwise terminate. If you receive a written extension stipulation, and an additional garnishee fee for each extension, you must honor it unless a different garnishment against this debtor's earnings is served upon you before the extension takes effect. In that case, the extension is void and you must return the extension fee to the party who paid it to you.

(4) The notice of exemption served upon the garnishee under s. 812.35 (4) shall be in substantially the following form.

STATE OF WISCONSIN
CIRCUIT COURT:.... County

A.B., Creditor
vs.
C.D., Debtor
and
E.F., Garnishee

File or Reference Number....
EXEMPTION NOTICE
EARNINGS GARNISHMENT

To the debtor:

The creditor was awarded a judgment against you or your spouse by.... (County Circuit or Federal District) Court on the.... day of...., (year) That judgment not having been fully paid, the creditor has now filed a garnishment proceeding against your

WR: Please use this format

earnings from the garnishee. This means that the creditor is seeking to take some of your earnings to satisfy part or all of the judgment against you or your spouse.

The total amount of the creditor's claim is as follows:

Unpaid balance on judgment	\$....
Unpaid postjudgment interest	\$....
Costs:	
a. Garnishment filing fee	\$....
b. Garnishee fee	\$....
c. Service of process (estimate)	\$....
TOTAL	\$....

75% By law, you are entitled to an exemption of not less than 80% of your disposable earnings. Your "disposable earnings" are those remaining after social security and federal and state income taxes are withheld.

Your earnings are completely exempt from garnishment if:

1. Your household income is below the federal poverty level, or this garnishment would cause that to happen. See the enclosed schedules and worksheet to determine if you qualify for this exemption.

2. You receive aid to families with dependent children, relief funded by a relief block grant under ch. 49, relief provided by counties under section 59.07 (154) of the Wisconsin Statutes, medical assistance, supplemental security income, food stamps, or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the Wisconsin Statutes, or have received these benefits within the past 6 months.

NOTE: Par. 2 is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c).

3. At least 25% of your disposable earnings are assigned by court order for support.

If you qualify for a complete exemption, you must give or mail a copy of the enclosed debtor's answer form to the garnishee in order to receive that increased exemption.

If your circumstances change while the garnishment is in effect, you may file a new answer at any time.

If you do not qualify for a complete exemption, but you will not be able to acquire the necessities of life for yourself and your dependents if your earnings are reduced by this earnings garnishment, you may ask the court in which this earnings garnishment was filed to increase your exemption or grant you other relief.

**IF YOU NEED ASSISTANCE
CONSULT AN ATTORNEY**

If you have earnings that are being garnished that are exempt or subject to a defense, the sooner you file your answer or seek relief from the court, the sooner such relief can be provided. This earnings garnishment affects your earnings in pay periods beginning within 13 weeks after it was served on the garnishee. You may agree in writing with the creditor to extend it for additional 13-week periods until the debt is paid.

PENALTIES

If you wrongly claim an exemption or defense in bad faith, or if the creditor wrongly objects to your claim in bad faith, the court may order the person who acted in bad faith to pay court costs, actual damages and reasonable attorney fees.

(5) The debtor's answer form under s. 812.37 shall be in substantially the following form:

STATE OF WISCONSIN
CIRCUIT COURT:.... County

A.B., Creditor	File or Reference Number....
vs.	EARNINGS GARNISHMENT
C.D., Debtor	DEBTOR'S ANSWER
and	
E.F., Garnishee	

To the garnishee:

My earnings are COMPLETELY EXEMPT from earnings garnishment because:

- ... 1. The judgment has been paid or is void.
- ... 2. I receive, am eligible for, or have within 6 months received, aid to families with dependent children, relief funded by a relief block grant under ch. 49, relief provided by counties under section 59.07 (154) of the Wisconsin Statutes, medical assistance, supplemental security income, food stamps, or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the Wisconsin Statutes.
- ... 3. At least 25% of my disposable earnings are assigned for support by court order.
- ... 4. My household income is less than the poverty line, or this garnishment would cause that to happen.
- ... 5. I have another defense to this earnings garnishment (explain briefly).

I understand that if I claim a complete exemption or defense in bad faith, I may be held liable to the creditor for actual damages, costs and reasonable attorney fees.

DATE Signature of Debtor
 Address
 Telephone Number
 Date Received by Garnishee

(6) The creditor's objection to the debtor's answer and demand for hearing shall be in substantially the following form:

STATE OF WISCONSIN
CIRCUIT COURT: County

A.B., Creditor	File or Reference Number
vs.	OBJECTION TO
C.D., Debtor	DEBTOR'S ANSWER
and	AND DEMAND FOR HEARING
E.F., Garnishee	EARNINGS GARNISHMENT

To the Clerk of Circuit Court:

I hereby object to the debtor's answer and demand a hearing to resolve the issues in controversy. By statute, this hearing must be held as soon as practicable after this objection and demand are filed. I object to the debtor's answer for the following reasons (explain briefly):

.....
 Please schedule this hearing and notify all parties.
 To the best of my knowledge, the debtor's current address:
 is the same as that stated in the notice I filed to commence this earnings garnishment.
 is now

I understand that if I object to the debtor's answer in bad faith, I may be held liable to the debtor for actual damages, costs and reasonable attorney fees.

Date: Creditor or Creditor's Attorney:
 Address:

History: 1993 a. 80, 490; 1995 a. 27, 224; 1997 a. 35, 250, 291; s. 13.93 (2) (c).
NOTE: 1993 Wis. Act 80, which created ss. 812.30 to 812.44, contains extensive legislative council notes.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1274/1

RPN./:.....

R-Note

*Wlj
&
Jlg*

1999 BILL

Gen Cat

1 AN ACT *Gen Cat*; relating to: disposable earning exempt from garnishment.

Analysis by the Legislative Reference Bureau

Under current law, if a person's earnings are garnished in this state, generally only 20% of the person's disposable earnings are subject to that garnishment. If the person garnished is part of a household whose income is below the poverty line, if the garnishment would result in the household income being below the poverty line or if the person is receiving need-based public assistance, all of the person's earnings are exempt from garnishment. These exemptions do not apply if the judgment debt being recovered by the garnishment action was ordered under a voluntary wage earner plan approved by a circuit court or ordered by a federal bankruptcy court. The exemptions also do not apply for judgment debts for the support of a person or for unpaid taxes. Current law also provides that if a person is paying support or maintenance under a court-ordered assignment of wages, not more than 25% of the person's disposable income left after the assigned payment is made is subject to garnishment.

This bill changes the general limit of 20% to 25% of a person's disposable earnings being subject to garnishment. The bill maintains the total exemption from earnings garnishment for persons living in households whose income is below the poverty line, persons living in households whose income would be below the poverty line if the garnishment would be allowed and for persons who are receiving need-based public assistance. The bill does not change the current exceptions to these exemptions for unpaid taxes or support or for judgment debts ordered under a voluntary wage earner plan approved by a circuit court or for debts ordered by a federal bankruptcy court, except that the use of the state garnishment procedures

that maybe

BILL

to collect the federal bankruptcy court-ordered debt is limited to the federal garnishment limits, which limit an earnings garnishment to 25% of a person's disposable earnings or to the person's earnings that exceed 30 times the federal minimum hourly wage, whichever is less.

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

1 SECTION 1. 812.34 (1) (a)¹ of the statutes is amended to read:

2 812.34 (1) (a) Was ordered by a court under s. 128.21 or by a court of bankruptcy
3 under Title 11, USC, except that the collection of the debt under this subchapter that
4 was ordered by a court of bankruptcy is subject to the limit on the maximum
5 allowable garnishment of disposable earnings under 15 USC 1673 (a).

6 History: 1993 a. 80.

7 SECTION 2. 812.34 (2) (a)¹ of the statutes is amended to read:

8 812.34 (2) (a) Unless the court grants relief under s. 812.38 (2) or par. (b)
9 applies, 80% ⁷75% of the debtor's disposable earnings are exempt from garnishment
under this subchapter.

10 History: 1993 a. 80.

11 SECTION 3. 812.44 (3) (form)⁷ of the statutes is amended to read:

12 812.44 (3) (form)⁷ ~~The earnings garnishment form issued by the clerk under s.~~

13 ~~812.35 (2) shall be in substantially the following form:~~

14 STATE OF WISCONSIN

15 CIRCUIT COURT... County

16 A.B., Creditor

17 vs.

File or Reference Number....

18 C.D., Debtor

EARNINGS

19 and

GARNISHMENT

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E.F., Garnishee

THE STATE OF WISCONSIN, To the garnishee:

The creditor has been awarded a court judgment that has not been paid. As a result, the creditor claims that a total of \$... is owed by the debtor, as follows:

A. Unpaid balance on judgment	\$...
B. Unpaid postjudgment interest	\$...
C. Costs of this earnings garnishment (estimated)	\$...
TOTAL	\$...

The creditor believes that you will owe the debtor for earnings within the next 13 weeks. If the \$15 fee is tendered with these papers, you are directed by the court to do the following:

**DETERMINE WHETHER YOU WILL
OWE THE DEBTOR EARNINGS**

1. Determine if you are likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks.
2. If you are not likely to owe the debtor for earnings in pay periods beginning within the next 13 weeks, send a statement stating that fact to the creditor by the end of the 7th business day after receiving the earnings garnishment forms.

IF THE DEBTOR SENDS YOU AN ANSWER

3. Whenever you receive a debtor's answer form from the debtor, mail a copy of the answer form to the creditor by the end of the 3rd business day after receipt of that form. Include the date you received the answer form on the copy sent to the creditor.

BILL**SECTION 3**

1 4. If the debtor's answer form claims a complete exemption or defense, do not
2 withhold or pay to the creditor any part of the debtor's earnings under this
3 garnishment unless you receive an order of the court directing you to do so.

MULTIPLE EARNINGS GARNISHMENTS

4
5 5. If the debtor's earnings are already being garnisheed when you receive this
6 earnings garnishment, place this earnings garnishment into effect the pay period
7 after the last of any prior earnings garnishments terminates. Notify the debtor of
8 the amount of the garnishment and notify the creditor of the amount owed on the
9 pending garnishments by the end of the 7th business day after you receive these
10 forms. If there are no prior pending earnings garnishments against the debtor's
11 earnings, place this earnings garnishment into effect the pay period after you receive
12 it.

**EARNINGS GARNISHMENTS LAST 13 WEEKS,
13 EXCEPT FOR PUBLIC EMPLOYEES**

14
15 6. The garnishment of the earnings of employes of the state of Wisconsin and
16 its political subdivisions remain in effect until the judgment is satisfied. The
17 garnishment of earnings of other employes will affect the debtor's earnings for all pay
18 periods beginning within 13 weeks after you receive it, unless the debtor's earnings
19 are already being garnisheed. If this earnings garnishment is delayed under
20 paragraph 5, above, it will affect the debtor's earnings for all pay periods beginning
21 within 13 weeks after the first day of the pay period that you put this earnings
22 garnishment into effect. If the amount claimed by the creditor is fully paid before
23 the end of the 13 weeks, this earnings garnishment will terminate at that point.

24 ~~PAYING THE CREDITOR~~

BILL

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~~NO~~ ~~7~~ Between 5 and 10 business days after each payday of a pay period affected

2

by this earnings garnishment, pay the creditor 20% 25% of the debtor's disposable

3

earnings for that pay period. Payment is complete upon mailing.

4

~~EFFECT OF COURT ORDERED~~

5

~~ASSIGNMENTS FOR SUPPORT~~

6

8. If the debtor has assigned his or her earnings for support by court order, those

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support payments take priority over this earnings garnishment. If 25% or more of

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the debtor's disposable earnings is assigned for support by court order, do not pay any

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part of the debtor's earnings to the creditor. Instead, send the creditor a statement

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of that fact by the end of the 7th business day after you receive these forms. If less

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than 25% of the debtor's earnings is assigned for support by court order, the amount

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the creditor must be paid is reduced so that the total of earnings assigned and

13

garnisheed does not exceed 25% of the debtor's disposable earnings.

14

EXTENSIONS

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9. The debtor and creditor may agree in writing to extend this earnings

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garnishment for additional pay periods beginning within 13 weeks after this

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earnings garnishment would otherwise terminate. If you receive a written extension

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stipulation, and an additional garnishee fee for each extension, you must honor it

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unless a different garnishment against this debtor's earnings is served upon you

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before the extension takes effect. In that case, the extension is void and you must

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return the extension fee to the party who paid it to you.

22

History: 1993 a. 80, 490; 1995 a. 27, 224; 1997 a. 35, 250, 291; s. 13.93(2)(c).

SECTION 4. 812.44 (4) ~~(b)(1)~~ of the statutes is amended to read:

23

812.44 (4) ~~(b)(1)~~ The notice of exemption served upon the garnishee under s.

24

812.35 (4) shall be in substantially the following form:

plain

BILL

WPO: Please see attached form photocopy for formatting.

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STATE OF WISCONSIN
CIRCUIT COURT:.... County

A.B., Creditor

vs.

File or Reference Number...

C.D., Debtor

EXEMPTION NOTICE

and

EARNINGS GARNISHMENT

E.F., Garnishee

To the debtor:

The creditor was awarded a judgment against you or your spouse by... (County Circuit or Federal District) Court on the.... day of...., (year) That judgment not having been fully paid, the creditor has now filed a garnishment proceeding against your earnings from the garnishee. This means that the creditor is seeking to take some of your earnings to satisfy part or all of the judgment against you or your spouse.

The total amount of the creditor's claim is as follows:

Unpaid balance on judgment

\$....

Unpaid postjudgment interest

\$....

Costs:

a. Garnishment filing fee

\$....



BILL

WFO -
see attached
sheets for
format

1 b. Garnishee fee

\$....

2 c. Service of process (estimate)

\$....

3 **TOTAL**

\$....

→ (4)

By law, you are entitled to an exemption of not less than 80%[✓] 75% of your disposable earnings. Your "disposable earnings" are those remaining after social security and federal and state income taxes are withheld.

Your earnings are completely exempt from garnishment if:

1. Your household income is below the federal poverty level, or this garnishment would cause that to happen. See the enclosed schedules and worksheet to determine if you qualify for this exemption.

2. You receive aid to families with dependent children, relief funded by a relief block grant under ch. 49, relief provided by counties under section 59.07 (154) of the Wisconsin Statutes, medical assistance, supplemental security income, food stamps, or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of the Wisconsin Statutes, or have received these benefits within the past 6 months.

NOTE-NOTE: Para 2 is shown as affected by two acts of the 1997 legislature and as merged by the revisor under s. 13.93 (2) (c). NOTE:

3. At least 25% of your disposable earnings are assigned by court order for support.

If you qualify for a complete exemption, you must give or mail a copy of the enclosed debtor's answer form to the garnishee in order to receive that increased exemption.

WFO - see attached sheets for format

BILL

1 If your circumstances change while the garnishment is in effect, you may file
2 a new answer at any time.

3 If you do not qualify for a complete exemption, but you will not be able to acquire
4 the necessities of life for yourself and your dependents if your earnings are reduced
5 by this earnings garnishment, you may ask the court in which this earnings
6 garnishment was filed to increase your exemption or grant you other relief.

7 **IF YOU NEED ASSISTANCE**

8 **CONSULT AN ATTORNEY**

9 If you have earnings that are being garnisheed that are exempt or subject to a
10 defense, the sooner you file your answer or seek relief from the court, the sooner such
11 relief can be provided. This earnings garnishment affects your earnings in pay
12 periods beginning within 13 weeks after it was served on the garnishee. You may
13 agree in writing with the creditor to extend it for additional 13-week periods until
14 the debt is paid.

15 **PENALTIES**

16 If you wrongly claim an exemption or defense in bad faith, or if the creditor
17 wrongly objects to your claim in bad faith, the court may order the person who acted
18 in bad faith to pay court costs, actual damages and reasonable attorney fees.

19 History: 1993 a. 80, 490; 1995 a. 27, 224; 1997 a. 35, 250, 291; s. 13.93 (2) (c).

SECTION 5. Initial applicability.

20 (1) This act first applies to garnishment actions commenced on the effective
21 date of this subsection.[✓]

22 **SECTION 6. Effective date.**

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1274/1dn

RPN.../.....

wj
+
jg

Please review this draft carefully to ensure that it complies with your intent.

I added a delayed effective date to give the interested parties time to prepare for the change and to give the group that provides the forms time to change the forms accordingly.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1274/1dn
RPN:wlj&jlg:km

February 24, 1999

Please review this draft carefully to ensure that it complies with your intent.

I added a delayed effective date to give the interested parties time to prepare for the change and to give the group that provides the forms time to change the forms accordingly.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

Nelson, Robert

From: Rindfleisch, Kelly
Sent: Wednesday, March 03, 1999 1:41 PM
To: Nelson, Robert

no "class" decides

You are working on two drafts for our office.

The first is LRB-2217/P2, a preliminary draft relating to actions against brewers, wholesalers or sellers of fermented malt beverages. First Scott wanted to know if in the definitions, there need to be a definition of sellers. Second, he wanted Section 5 taken out and replaced with similar language applying to malt beverages as is in the draft that was done for the firearms (LRB-2271). That would also be section 5 of that draft. Those are the two changes he wanted made, if possible or needed.

1274
The second draft is LRB-1247 relating to the garnishment of wages. I looked back at the draft request that was made and I didn't request what we had intended. The representative wants to keep the limit at 20%. Our intent was to bring state law in line with federal law which doesn't allow for 100% garnishment of wages, which I believe is covered in the second part of the draft. From the background that I've got, 1993 WI Act 80 made changes to the garnishment laws and there were some inadvertent changes made that resulted in language that allows a bankruptcy court to garnish all wages. Under the federal law, the exception to the exemption of a portion of the wages is when there is a wage earner's plan. So, in essence, we want to make sure that a court cannot garnish 100% of person's wages. I hope I explained better this time.

As always, if you have any questions, please feel free to contact me at 6-3363.

Kelly Rindfleisch
Research Assistant
Rep. Scott Gunderson's Office



judgment

1999 BILL

insert and

This bill limits the ^{bankruptcy} ~~bankruptcy~~ court exception to the 80% and 100% wage exemptions to ^{these} judgments ordered by a bankruptcy court under a voluntary wage earner plan approved by the bankruptcy court under chapter 13 of the federal bankruptcy law

- 1 AN ACT to amend 812.34 (1) (a), 812.34 (2) (a), 812.44 (3) (form) 7. and 812.44 (4)
- 2 of the statutes; relating to: disposable earning exempt from garnishment.

80% Analysis by the Legislative Reference Bureau *exempt from*

Under current law, if a person's earnings are garnished in this state, generally ~~only 20%~~ of the person's disposable earnings are ~~subject to~~ that garnishment. If the person garnished is part of a household whose income is below the poverty line, if the garnishment would result in the household income being below the poverty line or if the person is receiving need-based public assistance, all of the person's earnings are exempt from garnishment. These exemptions do not apply if the judgment debt being recovered by the garnishment action was ordered under a voluntary wage earner plan approved by a circuit court or ordered by a federal bankruptcy court. The exemptions ~~also~~ do not apply for judgment debts for the support of a person or for unpaid taxes. Current law also provides that, if a person is paying support or maintenance under a court-ordered assignment of wages, not more than 25% of the person's disposable income left after the assigned payment is made is subject to garnishment.

This bill changes the general limit of 20% to 25% of a person's disposable earnings that may be subject to garnishment. The bill maintains the total exemption from earnings garnishment for persons living in households whose income is below the poverty line, persons living in households whose income would be below the poverty line if the garnishment would be allowed and for persons who are receiving need-based public assistance. The bill does not change the current exceptions to these exemptions for unpaid taxes or support or for judgment debts ordered under

bill provides that the exemption based on assignment of wages debt

BILL

1 A.B., Creditor
 2 vs.
 3 C.D., Debtor
 4 and
 5 E.F., Garnishee

File or Reference Number....

**EXEMPTION NOTICE
EARNINGS GARNISHMENT**

6 _____
 7 To the debtor:

8 The creditor was awarded a judgment against you or your spouse by... (County
 9 Circuit or Federal District) Court on the... day of..., (year) That judgment not
 10 having been fully paid, the creditor has now filed a garnishment proceeding against
 11 your earnings from the garnishee. This means that the creditor is seeking to take
 12 some of your earnings to satisfy part or all of the judgment against you or your
 13 spouse.

14 The total amount of the creditor's claim is as follows:

15 Unpaid balance on judgment	\$...
16 Unpaid postjudgment interest	\$...
17 Costs:	
18 a. Garnishment filing fee	\$...
19 b. Garnishee fee	\$...
20 c. Service of process (estimate)	\$...
21 TOTAL	\$...

22 By law, you are entitled to an exemption of not less than ~~80%~~ 75% of your
 23 disposable earnings. Your "disposable earnings" are those remaining after social
 24 security and federal and state income taxes are withheld.

25 Your earnings are completely exempt from garnishment if:

BILL

1 1. Your household income is below the federal poverty level, or this
2 garnishment would cause that to happen. See the enclosed schedules and worksheet
3 to determine if you qualify for this exemption.

4 2. You receive aid to families with dependent children, relief funded by a relief
5 block grant under ch. 49, relief provided by counties under section 59.07 (154) of the
6 Wisconsin Statutes, medical assistance, supplemental security income, food stamps,
7 or veterans benefits based on need under 38 USC 501 to 562 or section 45.351 (1) of
8 the Wisconsin Statutes, or have received these benefits within the past 6 months.

9 3. At least 25% of your disposable earnings are assigned by court order for
10 support.

11 If you qualify for a complete exemption, you must give or mail a copy of the
12 enclosed debtor's answer form to the garnishee in order to receive that increased
13 exemption.

14 If your circumstances change while the garnishment is in effect, you may file
15 a new answer at any time.

16 If you do not qualify for a complete exemption, but you will not be able to acquire
17 the necessities of life for yourself and your dependents if your earnings are reduced
18 by this earnings garnishment, you may ask the court in which this earnings
19 garnishment was filed to increase your exemption or grant you other relief.

20 **IF YOU NEED ASSISTANCE**

21 **CONSULT AN ATTORNEY**

22 If you have earnings that are being garnisheed that are exempt or subject to a
23 defense, the sooner you file your answer or seek relief from the court, the sooner such
24 relief can be provided. This earnings garnishment affects your earnings in pay
25 periods beginning within 13 weeks after it was served on the garnishee. You may

BILL

1 agree in writing with the creditor to extend it for additional 13-week periods until
2 the debt is paid.

PENALTIES

3
4 If you wrongly claim an exemption or defense in bad faith, or if the creditor
5 wrongly objects to your claim in bad faith, the court may order the person who acted
6 in bad faith to pay court costs, actual damages and reasonable attorney fees.

SECTION 5. Initial applicability.

7
8 (1) This act first applies to garnishment actions commenced on the effective
9 date of this subsection.

SECTION 6. Effective date.

10
11 (1) This act takes effect on the first day of the 4th month beginning after
12 publication.

13 (END)

Scott Gunderson



STATE REPRESENTATIVE • 83RD DISTRICT

State Capitol:
P.O. Box 8952
Madison, WI 53708
(608) 266-3363

Toll-Free:
(888) 534-0083

Fax:
(608) 282-3683

E-Mail:
Rep.Gunderson@
legis.state.wi.us

83rd District:
P.O. Box 7
Waterford, WI
53185
(414) 895-6254

MEMO

Date: April 26, 1999
From: State Rep. Scott Gunderson
To: Robert P. Nelson, Senior Legislative Attorney
Re: LRB-1274

Attached is a copy of a letter from the attorney of the individual who is directly affected by the legislation. If possible, we would like you to incorporate into the draft his suggestion, which would make it consistent with federal code.

Thank you for your time and patience.

■ KIRT J.E. LUDWIG ■
Attorney at Law
Court Commissioner
Telephone: (414) 763-5046

217 East Jefferson Street
P.O. Box 190
Burlington, WI 53105

FAX: (414) 763-2493

March 12, 1999

Scott Gunderson
State Representative, 83rd District
State Capitol
P.O. Box 8952
Madison, WI 53708

In re: Amending Section 1. 812.34(1)(a) of the Statutes

Dear Scott:

I am in receipt of your letter dated March 9, 1999, relative to the above entitled matter together with a copy of the draft of legislation that you have prepared.

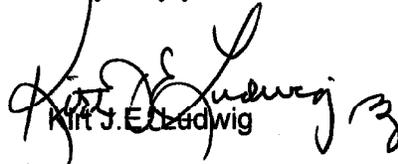
It might be advisable to make the legislation consistent with the Federal Code Section 1673(b)(1)(B) which reads as follows:

"Any Order of any court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code (11USCS §§ 1301 et seq.)"

Thereby, Section 812.34(1)(a) would read as follows:

"Was ordered by a court under s. 128.21 or was ordered by any court of the United States having jurisdiction over cases under chapter 13 of title 11 of the United States Code (11USCS §§ 1301 et seq.)"

Very truly yours,


Kirt J. E. Ludwig

KJEL:sz

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 3/5/99

To: Representative Gunderson

Relating to LRB drafting number: LRB-1274

Topic

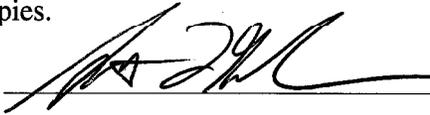
Exemption from garnishment of wages

Subject(s)

Courts - garn/injunct

1. **JACKET** the draft for introduction _____

in the **Senate** ____ or the **Assembly** ____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached  _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-7511



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1274/2-3

RPN:wlj:jf

D-Note

1999 BILL

Reger

1 AN ACT to amend 812.34 (1) (a) of the statutes; relating to: disposable earning
2 exempt from garnishment.

Analysis by the Legislative Reference Bureau

Under current law, if a person's earnings are garnisheed in this state, generally 80% of the person's disposable earnings are exempt that garnishment. If the person garnisheed is part of a household whose income is below the poverty line, if the garnishment would result in the household income being below the poverty line or if the person is receiving need-based public assistance, all of the person's earnings are exempt from garnishment. The exemptions do not apply for judgment debts for the support of a person or for unpaid taxes. These exemptions do not apply if the judgment debt being recovered by the garnishment action was ordered under a voluntary wage earner plan approved by a circuit court or ordered by a federal bankruptcy court.

This bill limits the bankruptcy court judgment exception to the 80% and 100% wage exemptions to those judgments ordered by a ~~bankruptcy~~ federal court under a voluntary wage earner plan approved ~~by the bankruptcy court~~ under chapter 13 of the federal bankruptcy law.

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

3 SECTION 1. 812.34 (1) (a) of the statutes is amended to read:

BILL

SECTION 1

any court of the United States having jurisdiction
OVER CASES

1 812.34 (1) (a) Was ordered by a court under s. 128.21 or by a court of bankruptcy
2 under Title 11, USC, 1301 to 1330.

SECTION 2. Initial applicability.

3
4 (1) This act first applies to garnishment actions commenced on the effective
5 date of this subsection.

SECTION 3. Effective date.

6
7 (1) This act takes effect on the first day of the 4th month beginning after
8 publication.

9 (END)

D-Note

*I revised this draft based on
the suggestion ^{made} by Atty. Coedwig
except that I followed the ^{Wisconsin}
statutes method of citing the
u.s. code.*

RPN

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1274/3dn
RPN:wj:km

April 30, 1999

I revised this draft based on the suggestion made by Atty. Ladwig, except that I followed the *Wisconsin Statutes* method of citing the U.S. Code.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

0 0 0

0 0 0



1999 BILL

1 **AN ACT** ^{Regen} *to amend* 812.34 (1) (a) of the statutes; **relating to:** disposable earning
2 exempt from garnishment.

Analysis by the Legislative Reference Bureau

Under current law, if a person's earnings are garnished in this state, generally 80% of the person's disposable earnings are exempt that garnishment. If the person garnished is part of a household whose income is below the poverty line, if the garnishment would result in the household income being below the poverty line or if the person is receiving need-based public assistance, all of the person's earnings are exempt from garnishment. The exemptions do not apply for judgment debts for the support of a person or for unpaid taxes. These exemptions do not apply if the judgment debt being recovered by the garnishment action was ordered under a voluntary wage earner plan approved by a circuit court or ordered by a federal bankruptcy court.

This bill limits the bankruptcy court judgment exception to the 80% and 100% wage exemptions to those judgments ordered by a federal court under a voluntary wage earner plan approved under chapter 13 of the federal bankruptcy law.

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

3 SECTION 1. 812.34 (1) (a) of the statutes is amended to read:

