

# HOUSE BILL No. 4064

February 5, 1991, Introduced by Rep. Profit and referred to the Committee on Judiciary.

A bill to amend section 4011 of Act No. 236 of the Public Acts of 1961, entitled as amended  
"Revised judicature act of 1961,"  
being section 600.4011 of the Michigan Compiled Laws; and to add section 8410a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 4011 of Act No. 236 of the Public Acts  
2 of 1961, being section 600.4011 of the Michigan Compiled Laws, is  
3 amended and section 8410a is added to read as follows:

4       Sec. 4011. (1) Subject to the conditions in ~~subsections~~  
5 ~~(2), (3), (4), (5), (6), and (7)~~ THIS SECTION, the circuit court  
6 ~~shall have power~~ MAY by garnishment ~~to~~ apply the following  
7 property or obligation, or both, to the satisfaction of a claim  
8 evidenced by contract, judgment of this state, or foreign

1 judgment, whether or not the state has jurisdiction over the  
2 person against whom the claim is asserted:

3 (a) Personal property belonging to the person against whom  
4 the claim is asserted but ~~which~~ THAT is in the possession or  
5 control of a third person if the third person is subject to the  
6 judicial jurisdiction of the state and the personal property to  
7 be applied is within the boundaries of this state.

8 (b) An obligation owed to the person against whom the claim  
9 is asserted if the obligor is subject to the judicial jurisdic-  
10 tion of the state.

11 (2) The court may exercise the jurisdiction granted in this  
12 section only if action is taken in accordance with rules adopted  
13 by the supreme court to protect the parties. Except as otherwise  
14 provided by SUBSECTION (4) OR BY court rule, ~~the~~ THIS state ~~of~~  
15 ~~Michigan~~ and every governmental unit ~~therein~~ IN THIS STATE,  
16 including but not limited to a public, municipal,  
17 quasi-municipal, or governmental corporation, unincorporated  
18 board, public body, or political subdivision, may be proceeded  
19 against as garnishees in the same manner and with like effect as  
20 individuals.

21 (3) A writ of garnishment may be issued before judgment only  
22 as provided in this subsection. Upon ex parte application show-  
23 ing that the person against whom the claim is asserted is not  
24 subject to the judicial jurisdiction of the state or, after dili-  
25 gent effort, cannot be served with process as required to subject  
26 him OR HER to the judicial jurisdiction of the state, a copy of  
27 the writ of garnishment shall be served upon the person against

1 whom the claim is made in the same manner as provided by rules of  
2 the supreme court for service of process in other civil actions  
3 in which personal jurisdiction over the defendant is not  
4 required. Upon rendition of judgment in the principal action,  
5 the obligation or property garnished shall be applied to the sat-  
6 isfaction of the judgment.

7 (4) A garnishment proceeding shall not be commenced against  
8 ~~the~~ THIS state ~~of Michigan~~ or any governmental unit ~~therein~~  
9 IN THIS STATE, including but not limited to a public, municipal,  
10 quasi-municipal, or governmental corporation, unincorporated  
11 board, public body, or political subdivision, until after the  
12 plaintiff's claim has been reduced to judgment.

13 (5) A garnishment proceeding shall not be commenced against  
14 ~~any~~ A person for money owing to a principal defendant on  
15 account of labor performed by the principal defendant until after  
16 the plaintiff's claim has been reduced to judgment.

17 (6) A sheriff or other public officer is not subject to gar-  
18 nishment for ~~any~~ money or things received or collected by him  
19 OR HER by virtue of an execution or other legal process in the  
20 favor of the principal defendant or because of any money in his  
21 OR HER hands for which he OR SHE is accountable merely as a  
22 public officer to the principal defendant.

23 (7) A garnishment proceeding shall not be commenced if the  
24 commencement of such a proceeding is forbidden by a statute of  
25 this state.

26 (8) IF AN OBLIGATION TO PAY WAGES OR SALARY TO THE PRINCIPAL  
27 DEFENDANT IS GARNISHEED, THE WRIT OF GARNISHMENT REMAINS

1 EFFECTIVE, AND SHALL NOT BE DISSOLVED, UNTIL 1 OR MORE OF THE  
2 FOLLOWING OCCURS:

3 (A) THE AMOUNT WITHHELD BY THE GARNISHEE DEFENDANT AND PAID  
4 OVER TO THE CLERK OF THE COURT EQUALS OR EXCEEDS THE AMOUNT OF  
5 THE JUDGMENT, INTEREST, AND COSTS, OR, IF THE GARNISHEE DEFENDANT  
6 DOES NOT PAY THE INDEBTEDNESS TO THE COURT, THE AMOUNT REQUIRED  
7 TO BE WITHHELD BY THE GARNISHEE DEFENDANT EQUALS OR EXCEEDS THE  
8 AMOUNT OF THE JUDGMENT, INTEREST, AND COSTS.

9 (B) THE CHANGED FINANCIAL CONDITION OF THE PRINCIPAL  
10 DEFENDANT WARRANTS THE DISSOLUTION OF THE WRIT OF GARNISHMENT.  
11 THE PRINCIPAL DEFENDANT HAS THE BURDEN OF PROVING TO THE COURT  
12 HIS OR HER CHANGED FINANCIAL CONDITION FOR PURPOSES OF THIS  
13 SUBDIVISION.

14 (C) THE EXPIRATION OF 6 MONTHS AFTER THE DATE ON WHICH THE  
15 GARNISHMENT IS ISSUED.

16 SEC. 8410A. A WRIT OF GARNISHMENT OF EARNINGS OWED OR TO BE  
17 OWED ISSUED BY THE SMALL CLAIMS DIVISION OF THE DISTRICT COURT  
18 SHALL REMAIN IN EFFECT UNTIL 1 OR MORE OF THE FOLLOWING OCCURS:

19 (A) THE AMOUNT WITHHELD BY THE GARNISHEE DEFENDANT AND PAID  
20 OVER TO THE CLERK OF THE COURT EQUALS OR EXCEEDS THE AMOUNT OF  
21 THE JUDGMENT, INTEREST, AND COSTS, OR, IF THE GARNISHEE DEFENDANT  
22 DOES NOT PAY THE INDEBTEDNESS TO THE COURT, THE AMOUNT REQUIRED  
23 TO BE WITHHELD BY THE GARNISHEE DEFENDANT EQUALS OR EXCEEDS THE  
24 AMOUNT OF THE JUDGMENT, INTEREST, AND COSTS.

25 (B) THE CHANGED FINANCIAL CONDITION OF THE PRINCIPAL  
26 DEFENDANT WARRANTS THE DISSOLUTION OF THE WRIT OF GARNISHMENT.  
27 THE PRINCIPAL DEFENDANT HAS THE BURDEN OF PROVING TO THE COURT

1 HIS OR HER CHANGED FINANCIAL CONDITION FOR PURPOSES OF THIS  
2 SUBDIVISION.

3 (C) THE EXPIRATION OF 6 MONTHS FROM THE DATE THE GARNISHMENT  
4 IS ISSUED.