

HOUSE BILL No. 5390

March 5, 2014, Introduced by Reps. Cotter, McCready and Haveman and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 4012 (MCL 600.4012), as amended by 2012 PA 304.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4012. (1) ~~Except for garnishment of a tax refund under~~
2 ~~section 4061a or garnishment of wages, salary, commissions, or~~
3 ~~other earnings, and subject to subsection (2), a~~ A writ of
4 garnishment of periodic payments remains in effect ~~for the period~~
5 ~~prescribed by the Michigan court rules.~~ AS FOLLOWS:

6 (A) A GARNISHMENT OF A TAX REFUND REMAINS IN EFFECT AS
7 PROVIDED IN SECTION 4061A.

8 (B) A writ of garnishment of wages, salary, commissions, or
9 other earnings remains in effect ~~for 182 days.~~ UNTIL THE BALANCE OF
10 THE JUDGMENT IS SATISFIED.

1 (C) ANY OTHER GARNISHMENT OF PERIODIC PAYMENTS REMAINS IN
2 EFFECT FOR THE PERIOD PRESCRIBED BY THE MICHIGAN COURT RULES.

3 (2) A garnishee is not liable for a writ of garnishment of
4 periodic payments under subsection (1) to the extent that the
5 garnishee is required to satisfy another writ of garnishment
6 against the same defendant having a higher priority or having the
7 same priority but received at an earlier date. For purposes of this
8 subsection, writs of garnishment have priority in the following
9 order:

10 (a) A garnishment resulting from an obligation of court
11 ordered support as defined in section 2 of the support and
12 parenting time enforcement act, 1982 PA 295, MCL 552.602.

13 (b) A levy of the state or a governmental unit of the state to
14 satisfy a tax liability.

15 (c) Any other garnishments, in the order in which they are
16 served.

17 (3) A WRIT OF GARNISHMENT OF WAGES, SALARY, COMMISSIONS, OR
18 OTHER EARNINGS UNDER SUBSECTION (1) IS NOT VALID OR ENFORCEABLE
19 UNLESS THE WRIT IS SERVED ON THE GARNISHEE IN ACCORDANCE WITH THE
20 MICHIGAN COURT RULES.

21 (4) A GARNISHEE UNDER A GARNISHMENT OF PERIODIC PAYMENTS THAT
22 FAILS TO TIMELY DISCLOSE AS REQUIRED BY STATUTE OR COURT RULE OR DO
23 ANOTHER ACT AS ORDERED BY THE COURT IS LIABLE FOR AN AMOUNT THAT
24 DOES NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN WITHHELD HAD THE
25 WRIT OF GARNISHMENT BEEN IN EFFECT FOR 60 DAYS OR \$100.00,
26 WHICHEVER IS GREATER. A GARNISHEE MAY RECOVER AN AMOUNT FOR WHICH
27 THE GARNISHEE IS LIABLE UNDER THIS SUBSECTION FROM FUTURE PERIODIC

1 PAYMENTS TO THE DEFENDANT AS PROVIDED IN SECTION 7 OF 1978 PA 390,
2 MCL 408.477.

3 (5) A GARNISHEE IS NOT LIABLE FOR ANY AMOUNT UNDER SUBSECTION
4 (4) UNLESS BOTH OF THE FOLLOWING OCCUR:

5 (A) WITHIN 14 DAYS AFTER THE FAILURE, THE PLAINTIFF SERVES A
6 NOTICE OF THE FAILURE ON THE GARNISHEE IN ACCORDANCE WITH MICHIGAN
7 COURT RULES.

8 (B) THE GARNISHEE IS PROVIDED 7 CALENDAR DAYS OR MORE IN WHICH
9 TO CURE THE FAILURE.

10 (6) ~~(3)~~ Except as otherwise provided by statute, a plaintiff
11 shall pay a fee of ~~\$6.00~~ **\$35.00 TO THE GARNISHEE** at the time a writ
12 ~~to the garnishee~~ of garnishment of periodic payments is served ~~upon~~
13 **ON** the garnishee.

14 (7) AS USED IN THIS SECTION, "GARNISHMENT" MEANS ANY ORDER
15 DIRECTED TO A THIRD PARTY TO WITHHOLD PERIODIC OR NONPERIODIC
16 PAYMENTS OF ASSETS.

17 (8) ~~(4)~~ As used in this section and section 8410a, "periodic
18 payments" means wages, salary, commissions, and other earnings,
19 land contract payments, rent, and other periodic debt or contract
20 payments that are or become payable during the effective period of
21 the writ of garnishment. Periodic payments do not mean any of the
22 following:

23 (a) Payments by a financial institution of interest on a
24 deposit account.

25 (b) Charges made by a financial institution automatically
26 against an account ~~which applies~~ **THAT ARE APPLIED** to a debt under
27 an automatic payment authorization executed by the account owner.

1 (c) Payments made by a financial institution to honor a check
2 or draft or to comply with an account holder's order of withdrawal
3 of funds from an account.

4 (d) Interest earned on a certificate of deposit that is paid
5 into a deposit account.

6 Enacting section 1. This amendatory act does not take effect
7 unless Senate Bill No.____ or House Bill No. 5391 (request no.
8 03894'13) of the 97th Legislature is enacted into law.