

2022 Regular Session

SENATE BILL NO. 284

BY SENATOR FOIL

CIVIL PROCEDURE. Provides relative to garnishments. (8/1/22)

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AN ACT

To amend and reenact Code of Civil Procedure Arts. 2412(A) and (D), 2414, and 2415, and to amend and reenact R.S. 13:3921(A), and 3923, relative to garnishments; to provide for notice of filing of garnishment petitions; to provide for service of garnishment judgments; to provide for garnishment of wages; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Arts. 2412(A) and (D), 2414, and 2415 are hereby amended and reenacted to read as follows:

Art. 2412. Method of service; delay for answering

A.~~(1)~~ The sheriff shall serve upon the garnishee the citation and a copy of the petition and of the interrogatories, together with a notice that a seizure is thereby effected against any property of or indebtedness to the judgment debtor.

~~(2) The judgment creditor shall send to the judgment debtor written notice of the filing of the garnishment petition by mail or electronic means. However, the notice provided to the judgment debtor shall have no effect on the validity of the seizure.~~

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D. The garnishee shall file his sworn answers to the interrogatories within ~~fifteen~~ **thirty** days from the date of service made pursuant to this Article.

* * *

Art. 2414. Notice of answer; traversing

The clerk shall cause written notice of the filing of the garnishee's answer to be served promptly upon the seizing creditor in the manner provided by Article 1314.

Unless the creditor files a contradictory motion traversing the answer of the garnishee within ~~fifteen~~ **thirty** days after service upon him of the notice of the filing of the garnishee's answer, any property of the judgment debtor in the possession of the garnishee and any indebtedness to the judgment debtor which the garnishee has not admitted holding or owing shall be released from seizure. A new seizure may be made of such property or indebtedness by filing a supplemental petition and serving additional interrogatories.

Art. 2415. Delivery of property or payment of indebtedness to sheriff

When the garnishee admits in his answer, or when on trial of a contradictory motion under ~~Article 2413~~ or Article 2414 it is found that he has in his possession property belonging to the judgment debtor or is indebted to him, the court shall order the garnishee to deliver the property immediately to the sheriff or to pay him the indebtedness when due. Delivery or payment to the sheriff discharges the garnishee's obligation to the judgment debtor to the extent of the delivery or payment.

This article does not apply to garnishment of wages, salaries, **tips reported to the employer,** or commissions.

Section 2. R.S. 13:3921(A) and 3923 are hereby amended and reenacted to read as follows:

§3921. Judgment fixing portion subject to seizure, payment to creditor and processing fee

A. In every case in which the wage, or salary, **tips reported to the employer, or other income** of a laborer, wage earner, artisan, mechanic, engineer,

1 fireman, carpenter, bricklayer, secretary, bookkeeper, clerk, employee on a
2 commission basis, or employee of any nature and kind whatever, whether skilled or
3 unskilled, shall be garnished either under attachment or fieri facias or as otherwise
4 provided by law, a judgment shall be rendered by the court of competent jurisdiction
5 in which the garnishment proceedings may be pending fixing the portion of such
6 wage, salary, commission, or other compensation as may be exempt, as provided by
7 law, and providing for the payment to the sheriff, marshal, or constable for
8 processing prior to payment to the seizing creditor of whatever sum for which
9 judgment may be obtained, out of the portion of such compensation which is not
10 exempt.

11 * * *

12 §3923. One writ and one set of interrogatories sufficient, statement of sums due to
13 be furnished to garnishee; installment payments; reopening case;
14 retention of jurisdiction; cessation of seizure by garnishment upon
15 termination of employment

16 A. It shall not be necessary that more than one writ of garnishment or one set
17 of interrogatories be served in ~~such cases~~ **a garnishment proceeding**, but the court
18 shall render judgment for the monthly, semimonthly, weekly, or daily payments to
19 be made to the seizing creditor according to the manner best suited to the
20 circumstances, until the indebtedness is paid. The garnisher shall serve upon the
21 garnishee the citation, the petition, the garnishment interrogatories, the notice of
22 seizure, and a statement of sums due under the garnishment, such statement to
23 include, but not be limited to, the principal, interest, court costs incurred to date, and
24 attorney's fee due under the judgment. The court, in its discretion, may reopen the
25 case upon the motion of any party concerned for evidence affecting the proper
26 continuance of ~~such~~ **the garnishment** judgment, and the court shall retain
27 jurisdiction to amend or set aside its **garnishment** judgment at any time in its
28 discretion; however, all effects of the seizure by garnishment shall cease upon the
29 termination of employment of the debtor with the garnishee, unless the debtor is

1 reinstated or reemployed within one hundred eighty days after the termination.

2 Should judgment by default be taken against any party garnishee, he may obtain a

3 reopening of the case upon proper showing and within the discretion of the court.

4 **B. Nothing in this article is meant to affect judgments rendered pursuant**
 5 **to Code of Civil Procedure Article 2413.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lebra R. Bias.

DIGEST

SB 284 Engrossed

2022 Regular Session

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Present law requires the judgment creditor to send the judgment debtor written notice of the filing of the garnishment petition by mail or electronically, and that the notice has no effect on the validity of the seizure. Proposed law repeals present law.

Present law requires the garnishee to file his sworn answers to the interrogatories within 15 days from the date service is made. Proposed law increases the time to answer from 15 days to 30 days from the date of service.

Present law requires the contradictory motion to be filed within 15 days after service of the notice of the filing of the garnishee's answer. Proposed law increases this filing period from 15 to 30 days.

Present law references contradictory motion pursuant to Art. 2413 which allows the judgment creditor to proceed by contradictory motion against the garnishee for the amount of the unpaid judgment plus interest and costs if the garnishee fails to answer the petition within 15 days of being served. Proposed law deletes this reference.

Present law provides that this article does not apply to garnishment of wages, salaries, or commissions. Proposed law adds tips reported to the employer to the list of items this article does not apply to.

Present law provides that judgment can be rendered against the garnishment of wages or salary. Proposed law retains present law and adds tips reported to the employer and other income to the types of garnishments that judgment can be rendered against.

Present law provides that the court may reopen a garnishment case upon motion of any party for evidence affecting the continuance of such judgment. Proposed law specifies that such judgment referred to is the garnishment judgment.

Proposed law provides that this article shall not affect garnishment judgments rendered pursuant to a writ of fieri facias.

Effective August 1, 2022.

(Amends C.C.P. Arts. 2412(A) and (D), 2414, and 2415, and R.S. 13:3921(A) and 3923)

Summary of Amendments Adopted by SenateCommittee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Keeps present law, R.S. 20:32, which prohibits any person engaged in lending money at more than 10% per year, or any member, officer, agent, or employee of any such person, from employing garnishment process against any legally exempt salary or wages of a debtor in an attempt to enforce payment of a debt, and imposes penalties of not less than sixty days nor more than ninety days imprisonment.
2. Clarifies "tips" as those that are reported to the employer.
3. Removes contractors from the list of wage/salary earners against whom a garnishment judgment can be rendered.
4. Makes technical changes.