

SENATE BILL NO. 284

BY SENATOR FOIL

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AN ACT

To amend and reenact Code of Civil Procedure Art. 2412(D), 2414, and 2415 and 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 Art. 2412(D), 2414, and 2415 are hereby amended and reenacted to read as follows:

Art. 2412. Method of service; delay for answering

* * *

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

1 motion under ~~Article 2413~~ or Article 2414 it is found that he has in his possession
 2 property belonging to the judgment debtor or is indebted to him, the court shall order
 3 the garnishee to deliver the property immediately to the sheriff or to pay him the
 4 indebtedness when due. Delivery or payment to the sheriff discharges the garnishee's
 5 obligation to the judgment debtor to the extent of the delivery or payment.

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

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

10 §3921. Judgment fixing portion subject to seizure, payment to creditor and
 11 processing fee

12 A. In every case in which the wage, ~~or salary,~~ **tips reported to the**
 13 **employer, or other income** of a laborer, wage earner, artisan, mechanic, engineer,
 14 fireman, carpenter, bricklayer, secretary, bookkeeper, clerk, employee on a
 15 commission basis, or employee of any nature and kind whatever, whether skilled or
 16 unskilled, shall be garnished either under attachment or fieri facias or as otherwise
 17 provided by law, a judgment shall be rendered by the court of competent jurisdiction
 18 in which the garnishment proceedings may be pending fixing the portion of such
 19 wage, salary, commission, or other compensation as may be exempt, as provided by
 20 law, and providing for the payment to the sheriff, marshal, or constable for
 21 processing prior to payment to the seizing creditor of whatever sum for which
 22 judgment may be obtained, out of the portion of such compensation which is not
 23 exempt.

24 * * *

25 §3923. One writ and one set of interrogatories sufficient, statement of sums due to
 26 be furnished to garnishee; installment payments; reopening case;
 27 retention of jurisdiction; cessation of seizure by garnishment upon
 28 termination of employment

29 **A.** It shall not be necessary that more than one writ of garnishment or one set
 30 of interrogatories be served in ~~such cases~~ **a garnishment proceeding,** but the court

1 shall render judgment for the monthly, semimonthly, weekly, or daily payments to
 2 be made to the seizing creditor according to the manner best suited to the
 3 circumstances, until the indebtedness is paid. The garnisher shall serve upon the
 4 garnishee the citation, the petition, the garnishment interrogatories, the notice of
 5 seizure, and a statement of sums due under the garnishment, such statement to
 6 include, but not be limited to, the principal, interest, court costs incurred to date, and
 7 attorney's fee due under the judgment. The court, in its discretion, may reopen the
 8 case upon the motion of any party concerned for evidence affecting the proper
 9 continuance of ~~such~~ the garnishment judgment, and the court shall retain
 10 jurisdiction to amend or set aside its garnishment judgment at any time in its
 11 discretion; however, all effects of the seizure by garnishment shall cease upon the
 12 termination of employment of the debtor with the garnishee, unless the debtor is
 13 reinstated or reemployed within one hundred eighty days after the termination.
 14 Should judgment by default be taken against any party garnishee, he may obtain a
 15 reopening of the case upon proper showing and within the discretion of the court.

16 **B. Nothing in this Section is meant to affect judgments rendered**
 17 **pursuant to Code of Civil Procedure Article 2413.**

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____