S T A T E O F N E W Y O R K

5397

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. REILICH -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to income deduction for support enforcement

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 1 of subdivision (b) of section 5241 of the civil practice law and rules, as amended by chapter 59 of the laws of 1993, is amended to read as follows:

(1) When a debtor is in default, an execution for support enforcement may be issued by the support collection unit, or by the sheriff, the clerk of court or the attorney for the creditor as an officer of the court. Where a debtor is receiving or will receive income, an execution for deductions therefrom in amounts not to exceed the limits set forth in subdivision (g) of this section may be served upon an employer or income payor after notice to the debtor. The amount of the deductions to be withheld shall be sufficient to ensure compliance with the direction in the order of support, and shall include an additional amount to be applied to the reduction of arrears. The creditor may amend the execution before or after service upon the employer or income payor to reflect additional arrears or payments made by the debtor after notice pursuant to subdivision (d) of this section, or to conform the execution to the facts found upon a determination made pursuant to subdivision (e) of this section. *AN EMPLOYER OR INCOME PAYER SHALL INDICATE ON THE PAYCHECK STUB OF AN EMPLOYEE WHOSE INCOME IS SUBJECT TO AN ORDER UNDER THIS SECTION, THAT THE INCOME IS BEING WITHHELD TO SATISFY AN ORDER OF CHILD SUPPORT. SUCH AMOUNT SHALL BE LABELED ON THE PAYCHECK STUB AS "PARENTAL CONTRIBUTION".*

S 2. The opening paragraph of paragraph 2 of subdivision (c) of section 5242 of the civil practice law and rules, as amended by chapter 601 of the laws of 2007, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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An employer served with an income deduction order entered pursuant to this subdivision shall commence deductions from the income due or thereafter due to the debtor no later than the first pay period that occurs fourteen days after service of the income deduction order, and shall remit payments to the state office of temporary and disability assistance pursuant to subdivision fourteen of section one hundred eleven-b of the social services law within ten days of the date that the debtor is paid. Each payment remitted by the employer shall be made payable to the creditor named in the order, and shall include the names, addresses, and social security numbers of the debtor and the creditor, and the date and the amount of each withholding of the debtor's income included in the payment. AN EMPLOYER SHALL INDICATE ON THE PAYCHECK STUB OF AN EMPLOYEE WHOSE INCOME IS SUBJECT TO AN ORDER UNDER THIS SECTION, THAT THE INCOME IS BEING WITHHELD TO SATISFY AN ORDER OF CHILD SUPPORT. SUCH AMOUNT SHALL BE LABELED ON THE PAYCHECK STUB AS "PARENTAL CONTRIBUTION". An employer shall be liable to the creditor for failure to deduct the amounts specified in the income deduction order, provided however that deduction by the employer of the amounts specified shall not relieve the debtor of the underlying obligation of support. If an employer shall fail to so pay the creditor, the creditor may commence a proceeding against the employer for accrued deductions, together with interest and reasonable attorney's fees. If the debtor's employment is terminated by resignation or dismissal at any time after service of the income deduction order, the order shall cease to have force and effect unless the debtor is reinstated or re-employed by the same employer. An employer must notify the creditor promptly when the debtor terminates employment and must provide the debtor's last address and the name and address of the debtor's new employer, if known. Where the income is compensation paid or payable to the debtor for personal services, the amount withheld by the employer shall not exceed the following:

S 3. This act shall take effect on the ninetieth day after it shall have become a law.