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I N S E N A T E

February 3, 2014

Introduced by Sen. NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the New York city civil court act, the uniform city court act, the uniform district court act, the uniform justice court act and the tax law, in relation to notice of small claims judgments and indexing of unpaid claims

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

- 1 Section 1. Subdivisions (a) and (b) of section 1811 of the New York
2 city civil court act, as amended by chapter 122 of the laws of 1987,
3 paragraph 2 of subdivision (b) as amended, paragraph 6 of subdivision
4 (b) as added, paragraph 7 of subdivision (b) as renumbered by chapter
5 650 of the laws of 1991, are amended to read as follows:
6 (a) Notice of judgment sent to judgment debtor shall specify that a
7 failure to satisfy a judgment may subject the debtor to any one or
8 combination of the following actions:
9 1. garnishment of wage;
10 2. garnishment of bank account;
11 3. a lien on personal property;
12 4. seizure and sale of real property;
13 5. seizure and sale of personal property, including automobiles;
14 6. suspension of motor vehicle license and registration, if claim is
15 based on defendant's ownership or operation of a motor vehicle;
16 7. revocation, suspension, or denial of renewal of any applicable
17 business license or permit;
18 8. investigation and prosecution by the attorney general for fraudu-
19 lent or illegal business practices; [and]
20 9. a penalty equal to three times the amount of the unsatisfied judg-
21 ment plus attorney's fees, if there are other unpaid claims[.]; AND
22 10. INTERCEPT OF ANY INCOME TAX REFUND OWED PURSUANT TO THE TAX LAW.
23 (b) Notice of judgment sent to judgment creditor shall contain but not
24 be limited to the following information:
25 1. the claimant's right to payment within thirty days following the
26 debtor's receipt of the judgment notice;

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

LBD11727-02-3

1 2. the procedures for use of section eighteen hundred twelve of this
2 article concerning the identification of assets of the judgment debtor,
3 including the use of information subpoenas, access to consumer credit
4 reports and the role of sheriffs and marshals, and actions to collect
5 three times the judgment award and attorney's fees if there are two
6 other unsatisfied claims against the debtor;

7 3. the claimant's right to initiate actions to recover the unpaid
8 judgment through the sale of the debtor's real property, or personal
9 property;

10 4. the claimant's right to initiate actions to recover the unpaid
11 judgment through suspension of debtor's motor vehicle license and regis-
12 tration, if claim is based on defendant's ownership or operation of a
13 motor vehicle;

14 5. the claimant's right to notify the appropriate state or local
15 licensing or certifying authority of an unsatisfied judgment as a basis
16 for possible revocation, suspension, or denial of renewal of business
17 license; [and]

18 6. a statement that upon satisfying the judgment, the judgment debtor
19 shall present appropriate proof thereof to the court; [and]

20 7. the claimant's right to notify the attorney general if the debtor
21 is a business and appears to be engaged in fraudulent or illegal busi-
22 ness practices[.]; AND

23 8. THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID
24 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT
25 TO THE TAX LAW.

26 S 2. Subdivisions (a) and (b) of section 1811 of the uniform city
27 court act, as amended by chapter 122 of the laws of 1987, paragraph 2 of
28 subdivision (b) as amended, paragraph 6 of subdivision (b) as added,
29 paragraph 7 of subdivision (b) as renumbered by chapter 650 of the laws
30 of 1991, are amended to read as follows:

31 (a) Notice of judgment sent to judgment debtor shall specify that a
32 failure to satisfy a judgment may subject the debtor to any one or
33 combination of the following actions:

- 34 1. garnishment of wage;
- 35 2. garnishment of bank account;
- 36 3. a lien on personal property;
- 37 4. seizure and sale of real property;
- 38 5. seizure and sale of personal property, including automobiles;
- 39 6. suspension of motor vehicle license and registration, if claim is
40 based on defendant's ownership or operation of a motor vehicle;
- 41 7. revocation, suspension, or denial of renewal of any applicable
42 business license or permit;

43 8. investigation and prosecution by the attorney general for fraudu-
44 lent or illegal business practices; [and]

45 9. a penalty equal to three times the amount of the unsatisfied judg-
46 ment plus attorney's fees, if there are other unpaid claims[.]; AND

47 10. INTERCEPT OF ANY INCOME TAX REFUND OWED PURSUANT TO THE TAX LAW.

48 (b) Notice of judgment sent to judgment creditor shall contain but not
49 be limited to the following information:

50 1. the claimant's right to payment within thirty days following the
51 debtor's receipt of the judgment notice;

52 2. the procedures for use of section eighteen hundred twelve of this
53 article concerning the identification of assets of the judgment debtor
54 including the use of information subpoenas, access to consumer credit
55 reports and the role of sheriffs and marshals, and actions to collect

1 three times the judgment award and attorney's fees if there are two
2 other unsatisfied claims against the debtor;

3 3. the claimant's right to initiate actions to recover the unpaid
4 judgment through the sale of the debtor's real property, or personal
5 property;

6 4. the claimant's right to initiate actions to recover the unpaid
7 judgment through suspension of debtor's motor vehicle license and regis-
8 tration, if claim is based on defendant's ownership or operation of a
9 motor vehicle;

10 5. the claimant's right to notify the appropriate state or local
11 licensing or certifying authority of an unsatisfied judgment as a basis
12 for possible revocation, suspension, or denial of renewal of business
13 license; [and]

14 6. a statement that upon satisfying the judgment, the judgment debtor
15 shall present appropriate proof thereof to the court; [and]

16 7. the claimant's right to notify the attorney general if the debtor
17 is a business and appears to be engaged in fraudulent or illegal busi-
18 ness practices[.]; AND

19 8. THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID
20 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT
21 TO THE TAX LAW.

22 S 3. Subdivisions (a) and (b) of section 1811 of the uniform district
23 court act, as amended by chapter 122 of the laws of 1987, paragraph 2 of
24 subdivision (b) as amended, paragraph 6 of subdivision (b) as added,
25 paragraph 7 of subdivision (b) as renumbered by chapter 650 of the laws
26 of 1991, are amended to read as follows:

27 (a) Notice of judgment sent to judgment debtor shall specify that a
28 failure to satisfy a judgment may subject the debtor to any one or
29 combination of the following actions:

- 30 1. garnishment of wage;
- 31 2. garnishment of bank account;
- 32 3. a lien on personal property;
- 33 4. seizure and sale of real property;
- 34 5. seizure and sale of personal property, including automobiles;
- 35 6. suspension of motor vehicle license and registration, if claim is
36 based on defendant's ownership or operation of a motor vehicle;
- 37 7. revocation, suspension, or denial of renewal of any applicable
38 business license or permit;
- 39 8. investigation and prosecution by the attorney general for fraudu-
40 lent or illegal business practices; [and]
- 41 9. a penalty equal to three times the amount of the unsatisfied judg-
42 ment plus attorney's fees, if there are other unpaid claims[.]; AND
- 43 10. INTERCEPT OF ANY INCOME TAX REFUND OWED PURSUANT TO THE TAX LAW.

44 (b) Notice of judgment sent to judgment creditor shall contain but not
45 be limited to the following information:

- 46 1. the claimant's right to payment within thirty days following the
47 debtor's receipt of the judgment notice;
- 48 2. the procedures for use of section eighteen hundred twelve of this
49 article concerning the identification of assets of the judgment debtor
50 including the use of information subpoenas, access to consumer credit
51 reports and the role of sheriffs and marshals, and actions to collect
52 three times the judgment award and attorney's fees if there are two
53 other unsatisfied claims against the debtor;
- 54 3. the claimant's right to initiate actions to recover the unpaid
55 judgment through the sale of the debtor's real property, or personal
56 property;

1 4. the claimant's right to initiate actions to recover the unpaid
2 judgment through suspension of debtor's motor vehicle license and regis-
3 tration, if claim is based on defendant's ownership or operation of a
4 motor vehicle;

5 5. the claimant's right to notify the appropriate state or local
6 licensing or certifying authority of an unsatisfied judgment as a basis
7 for possible revocation, suspension, or denial of renewal of business
8 license; [and]

9 6. a statement that upon satisfying the judgment, the judgment debtor
10 shall present appropriate proof thereof to the court; [and]

11 7. the claimant's right to notify the attorney general if the debtor
12 is a business and appears to be engaged in fraudulent or illegal busi-
13 ness practices[.]; AND

14 8. THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID
15 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT
16 TO THE TAX LAW.

17 S 4. Subdivisions (a) and (b) of section 1811 of the uniform justice
18 court act, as amended by chapter 122 of the laws of 1987, paragraph 2 of
19 subdivision (b) as amended, paragraph 6 of subdivision (b) as added,
20 paragraph 7 of subdivision (b) as renumbered by chapter 650 of the laws
21 of 1991, are amended to read as follows:

22 (a) Notice of judgment sent to judgment debtor shall specify that a
23 failure to satisfy a judgment may subject the debtor to any one or
24 combination of the following actions:

- 25 1. garnishment of wage;
- 26 2. garnishment of bank account;
- 27 3. a lien on personal property;
- 28 4. seizure and sale of real property;
- 29 5. seizure and sale of personal property, including automobiles;
- 30 6. suspension of motor vehicle license and registration, if claim is
31 based on defendant's ownership or operation of a motor vehicle;

32 7. revocation, suspension, or denial of renewal of any applicable
33 business license or permit;

34 8. investigation and prosecution by the attorney general for fraudu-
35 lent or illegal business practices; [and]

36 9. a penalty equal to three times the amount of the unsatisfied judg-
37 ment plus attorney's fees, if there are other unpaid claims[.]; AND

38 10. INTERCEPT OF ANY INCOME TAX REFUND OWED PURSUANT TO THE TAX LAW.

39 (b) Notice of judgment sent to judgment creditor shall contain but not
40 be limited to the following information:

41 1. the claimant's right to payment within thirty days following the
42 debtor's receipt of the judgment notice;

43 2. the procedures for use of section eighteen hundred twelve of this
44 article concerning the identification of assets of the judgment debtor
45 including the use of information subpoenas, access to consumer credit
46 reports and the role of sheriffs and marshals, and actions to collect
47 three times the judgment award and attorney's fees if there are two
48 other unsatisfied claims against the debtor;

49 3. the claimant's right to initiate actions to recover the unpaid
50 judgment through the sale of the debtor's real property, or personal
51 property;

52 4. the claimant's right to initiate actions to recover the unpaid
53 judgment through suspension of debtor's motor vehicle license and regis-
54 tration, if claim is based on defendant's ownership or operation of a
55 motor vehicle;

1 5. the claimant's right to notify the appropriate state or local
2 licensing or certifying authority of an unsatisfied judgment as a basis
3 for possible revocation, suspension, or denial of renewal of business
4 license; [and]

5 6. a statement that upon satisfying the judgment, the judgment debtor
6 shall present appropriate proof thereof to the court; [and]

7 7. the claimant's right to notify the attorney general if the debtor
8 is a business and appears to be engaged in fraudulent or illegal busi-
9 ness practices[.]; AND

10 8. THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID
11 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT
12 TO THE TAX LAW.

13 S 5. The tax law is amended by adding a new section 171-w to read as
14 follows:

15 S 171-w. INTERCEPTION OF INCOME TAX REFUND IN SATISFACTION OF SMALL
16 CLAIMS JUDGMENT. THE COMMISSIONER, ON BEHALF OF THE DEPARTMENT, SHALL
17 ENTER INTO A WRITTEN AGREEMENT WITH THE CHIEF ADMINISTRATOR OF THE
18 COURTS, WHICH SHALL SET FORTH THE PROCEDURES FOR THE INTERCEPTION OF ANY
19 INCOME TAX REFUND OWED TO ANY SMALL CLAIMS JUDGMENT DEBTOR, INCLUDING
20 PENALTIES AND ATTORNEY'S FEES THAT ARE PROVIDED FOR PURSUANT TO PARA-
21 GRAPH 9 OF SUBDIVISION (A) OF SECTION 1811 OF THE NEW YORK CITY CIVIL
22 COURT ACT, THE UNIFORM CIVIL COURT ACT, THE UNIFORM DISTRICT COURT ACT
23 AND THE UNIFORM JUSTICE COURT ACT, AND PAYMENT OF SUCH REFUND TO THE
24 SMALL CLAIMS JUDGMENT CREDITOR WHO FILES AN APPROPRIATE NOTICE WITH THE
25 COMMISSIONER AS AN ACTION TO RECOVER SUCH JUDGMENT PURSUANT TO SUBDIVI-
26 SION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE NEW YORK CITY CIVIL
27 COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE
28 UNIFORM CITY COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED
29 ELEVEN OF THE UNIFORM DISTRICT COURT ACT OR SUBDIVISION (B) OF SECTION
30 EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM JUSTICE COURT ACT.

31 S 6. This act shall take effect immediately.