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

8441

I N A S S E M B L Y

January 15, 2014

Introduced by M. of A. OAKS -- read once and referred 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:

Section 1. Subdivisions (a) and (b) of section 1811 of the New York city civil court act, as amended by chapter 122 of the laws of 1987, paragraph 2 of subdivision (b) as amended, paragraph 6 of subdivision (b) as added, paragraph 7 of subdivision (b) as renumbered by chapter 650 of the laws of 1991, are amended to read as follows:

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

1. garnishment of wage;

2. garnishment of bank account;

3. a lien on personal property;

4. seizure and sale of real property;

5. seizure and sale of personal property, including automobiles;

6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

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

8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; [and]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. garnishment of wage;

2. garnishment of bank account;

3. a lien on personal property;

4. seizure and sale of real property;

5. seizure and sale of personal property, including automobiles;

6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

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

8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; [and]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. garnishment of wage;

2. garnishment of bank account;

3. a lien on personal property;

4. seizure and sale of real property;

5. seizure and sale of personal property, including automobiles;

6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

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

8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; [and]

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

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

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

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

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

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

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

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

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

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

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

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

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

1. garnishment of wage;

2. garnishment of bank account;

3. a lien on personal property;

4. seizure and sale of real property;

5. seizure and sale of personal property, including automobiles;

6. suspension of motor vehicle license and registration, if claim is based on defendant's ownership or operation of a motor vehicle;

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

8. investigation and prosecution by the attorney general for fraudulent or illegal business practices; [and]

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

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

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

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

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

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

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

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

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

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

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

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

S 171-W. INTERCEPTION OF INCOME TAX REFUND IN SATISFACTION OF SMALL CLAIMS JUDGMENT. THE COMMISSIONER, ON BEHALF OF THE DEPARTMENT, SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE CHIEF ADMINISTRATOR OF THE COURTS, WHICH SHALL SET FORTH THE PROCEDURES FOR THE INTERCEPTION OF ANY INCOME TAX REFUND OWED TO ANY SMALL CLAIMS JUDGMENT DEBTOR, INCLUDING PENALTIES AND ATTORNEY'S FEES THAT ARE PROVIDED FOR PURSUANT TO PARAGRAPH 9 OF SUBDIVISION (A) OF SECTION 1811 OF THE NEW YORK CITY CIVIL COURT ACT, THE UNIFORM CIVIL COURT ACT, THE UNIFORM DISTRICT COURT ACT AND THE UNIFORM JUSTICE COURT ACT, AND PAYMENT OF SUCH REFUND TO THE SMALL CLAIMS JUDGMENT CREDITOR WHO FILES AN APPROPRIATE NOTICE WITH THE COMMISSIONER AS AN ACTION TO RECOVER SUCH JUDGMENT PURSUANT TO SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE NEW YORK CITY CIVIL COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM CITY COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM DISTRICT COURT ACT OR SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM JUSTICE COURT ACT.

S 6. This act shall take effect immediately.