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2015-2016 Regular Sessions

I N A S S E M B L Y

March 9, 2015

Introduced by M. of A. OAKS, McDONOUGH, LUPINACCI, HAWLEY, DUPREY, MONTESANO, PALUMBO, BORELLI, GOODELL, TENNEY, WALTER, CORWIN, McKEVITT, FINCH, RAIA -- Multi-Sponsored by -- M. of A. BARCLAY, CROUCH, DiPIETRO, GARBARINO, GIGLIO, STEC -- 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:

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]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 1. garnishment of wage;

42 2. garnishment of bank account;

43 3. a lien on personal property;

44 4. seizure and sale of real property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 1. garnishment of wage;

37 2. garnishment of bank account;

38 3. a lien on personal property;

39 4. seizure and sale of real property;

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

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

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

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

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

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

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

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

54 2. the procedures for use of section eighteen hundred twelve of this
55 article concerning the identification of assets of the judgment debtor
56 including the use of information subpoenas, access to consumer credit

1 reports and the role of sheriffs and marshals, and actions to collect
2 three times the judgment award and attorney's fees if there are two
3 other unsatisfied claims against the debtor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 S 171-W. INTERCEPTION OF INCOME TAX REFUND IN SATISFACTION OF SMALL
23 CLAIMS JUDGMENT. THE COMMISSIONER, ON BEHALF OF THE DEPARTMENT, SHALL
24 ENTER INTO A WRITTEN AGREEMENT WITH THE CHIEF ADMINISTRATOR OF THE
25 COURTS, WHICH SHALL SET FORTH THE PROCEDURES FOR THE INTERCEPTION OF ANY
26 INCOME TAX REFUND OWED TO ANY SMALL CLAIMS JUDGMENT DEBTOR, INCLUDING
27 PENALTIES AND ATTORNEY'S FEES THAT ARE PROVIDED FOR PURSUANT TO PARA-
28 GRAPH NINE OF SUBDIVISION (A) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE
29 NEW YORK CITY CIVIL COURT ACT, THE UNIFORM CIVIL COURT ACT, THE UNIFORM
30 DISTRICT COURT ACT AND THE UNIFORM JUSTICE COURT ACT, AND PAYMENT OF
31 SUCH REFUND TO THE SMALL CLAIMS JUDGMENT CREDITOR WHO FILES AN APPROPRI-
32 ATE NOTICE WITH THE COMMISSIONER AS AN ACTION TO RECOVER SUCH JUDGMENT
33 PURSUANT TO SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE
34 NEW YORK CITY CIVIL COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN
35 HUNDRED ELEVEN OF THE UNIFORM CITY COURT ACT, SUBDIVISION (B) OF SECTION
36 EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM DISTRICT COURT ACT OR SUBDIVISION
37 (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM JUSTICE COURT ACT.

38 S 6. This act shall take effect immediately.