

4306

2015-2016 Regular Sessions

I N S E N A T E

March 12, 2015

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.

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

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

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

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

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

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

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

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

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

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

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

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

38 1. garnishment of wage;

39 2. garnishment of bank account;

40 3. a lien on personal property;

41 4. seizure and sale of real property;

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

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

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

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

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

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

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

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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 3. Subdivisions (a) and (b) of section 1811 of the uniform district  
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

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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 4. Subdivisions (a) and (b) of section 1811 of the uniform justice  
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-  
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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]

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

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

35 S 6. This act shall take effect immediately.