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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.