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2015-2016 Regular Sessions

IN SENATE

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:

Section 1. Subdivisions (a) and (b) of section 1811 of the New York 1 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 650 of the laws of 1991, are amended to read as follows: 5 (a) Notice of judgment sent to judgment debtor shall specify that a б 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; 3. a lien on personal property; 11 12 4. seizure and sale of real property; 5. seizure and sale of personal property, including automobiles; 13 14 6. suspension of motor vehicle license and registration, if claim is 15 based on defendant's ownership or operation of a motor vehicle; revocation, suspension, or denial of renewal of any applicable 16 7. 17 business license or permit; 8. investigation and prosecution by the attorney general for fraudu-18 lent or illegal business practices; [and] 19 a penalty equal to three times the amount of the unsatisfied judg-20 9. 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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(b) Notice of judgment sent to judgment creditor shall contain but not 1 2 be limited to the following information: 3 the claimant's right to payment within thirty days following the 1. 4 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, 5 6 7 including the use of information subpoenas, access to consumer credit reports and the role of sheriffs and marshals, and actions to collect 8 9 three times the judgment award and attorney's fees if there are two 10 other unsatisfied claims against the debtor; 3. the claimant's right to initiate actions to recover the unpaid 11 judgment through the sale of the debtor's real property, or personal 12 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 registration, if claim is based on defendant's ownership or operation of a 16 motor vehicle; 17 18 5. the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment as a basis 19 for possible revocation, suspension, or denial of renewal of business 20 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 THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID 8. 28 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT 29 TO THE TAX LAW. S 2. Subdivisions (a) and (b) of section 1811 of the uniform city 30 court act, as amended by chapter 122 of the laws of 1987, paragraph 2 of 31 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 failure to satisfy a judgment may subject the debtor to any one or 36 37 combination of the following actions: 38 1. garnishment of wage; 2. garnishment of bank account; 39 40 3. a lien on personal property; 4. seizure and sale of real property; 41 5. seizure and sale of personal property, including automobiles; 42 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 investigation and prosecution by the attorney general for fraudu-8. 48 lent or illegal business practices; [and] 9. a penalty equal to three times the amount of the unsatisfied judg-ment plus attorney's fees, if there are other unpaid claims[.]; AND 49 50 10. INTERCEPT OF ANY INCOME TAX REFUND OWED PURSUANT TO THE TAX LAW. 51 (b) Notice of judgment sent to judgment creditor shall contain but not 52 be limited to the following information: 53 54 1. the claimant's right to payment within thirty days following the 55 debtor's receipt of the judgment notice;

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2. the procedures for use of section eighteen hundred twelve of this 1 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 judgment through suspension of debtor's motor vehicle license and regis-11 tration, if claim is based on defendant's ownership or operation of a 12 motor vehicle; 13 14 5. the claimant's right to notify the appropriate state or local licensing or certifying authority of an unsatisfied judgment as a basis 15 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 a business and appears to be engaged in fraudulent or illegal busiis 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 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, 27 28 29 paragraph 7 of subdivision (b) as renumbered by chapter 650 of the laws of 1991, are amended to read as follows: 30 (a) Notice of judgment sent to judgment debtor shall specify that 31 а 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; 2. garnishment of bank account; 35 3. a lien on personal property; 36 37 4. seizure and sale of real property; 5. seizure and sale of personal property, including automobiles; 38 39 6. suspension of motor vehicle license and registration, if claim is 40 based on defendant's ownership or operation of a motor vehicle; suspension, or denial of renewal of any applicable 41 7. revocation, 42 business license or permit; 43 8. investigation and prosecution by the attorney general for fraudu-44 lent or illegal business practices; [and] 45 a penalty equal to three times the amount of the unsatisfied judg-9. ment plus attorney's fees, if there are other unpaid claims[.]; AND 46 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 debtor's receipt of the judgment notice; 51 2. the procedures for use of section eighteen hundred twelve of this 52 article concerning the identification of assets of the judgment debtor 53 54 including the use of information subpoenas, access to consumer credit reports and the role of sheriffs and marshals, and actions to collect 55

three times the judgment award and attorney's fees if there are two 1 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 the claimant's right to initiate actions to recover the unpaid 4. 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 the claimant's right to notify the appropriate state or local 5. licensing or certifying authority of an unsatisfied judgment as a basis 11 for possible revocation, suspension, or denial of renewal of business 12 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 the claimant's right to notify the attorney general if the debtor 7. 17 is a business and appears to be engaged in fraudulent or illegal busi-18 ness practices[.]; AND 19 THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID 8. 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 subdivision (b) as amended, paragraph 6 of subdivision (b) as added, 24 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; 2. garnishment of bank account; 31 32 3. a lien on personal property; 33 4. seizure and sale of real property; 5. seizure and sale of personal property, including automobiles; 34 suspension of motor vehicle license and registration, if claim is 35 6. based on defendant's ownership or operation of a motor vehicle; 36 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] 9. a penalty equal to three times the amount of the unsatisfied judg-41 ment plus attorney's fees, if there are other unpaid claims[.]; AND 42 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: the claimant's right to payment within thirty days following the 46 1. 47 debtor's receipt of the judgment notice; 48 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 49 50 51 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 52 other unsatisfied claims against the debtor; 53 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;

the claimant's right to initiate actions to recover the unpaid 1 4. judgment through suspension of debtor's motor vehicle license and regis-2 3 tration, if claim is based on defendant's ownership or operation of a 4 motor vehicle; 5 the claimant's right to notify the appropriate state or local 5. licensing or certifying authority of an unsatisfied judgment as a basis 6 7 for possible revocation, suspension, or denial of renewal of business 8 license; [and] 6. a statement that upon satisfying the judgment, the judgment debtor 9 10 shall present appropriate proof thereof to the court; [and] 7. the claimant's right to notify the attorney general if the debtor 11 12 is a business and appears to be engaged in fraudulent or illegal busi-13 ness practices[.]; AND 14 THE CLAIMANT'S RIGHT TO INITIATE ACTIONS TO RECOVER THE UNPAID 8. 15 JUDGMENT THROUGH THE INTERCEPTION OF ANY INCOME TAX REFUND OWED PURSUANT 16 TO THE TAX LAW. S 5. The tax law is amended by adding a new section 171-w to read as 17 follows: 18 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 COURTS, WHICH SHALL SET FORTH THE PROCEDURES FOR THE INTERCEPTION OF ANY 22 INCOME TAX REFUND OWED TO ANY SMALL CLAIMS JUDGMENT DEBTOR, INCLUDING 23 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 YORK CITY CIVIL COURT ACT, THE UNIFORM CIVIL COURT ACT, THE UNIFORM 26 NEW DISTRICT COURT ACT AND THE UNIFORM JUSTICE COURT ACT, AND PAYMENT 27 OF 28 SUCH REFUND TO THE SMALL CLAIMS JUDGMENT CREDITOR WHO FILES AN APPROPRI-NOTICE WITH THE COMMISSIONER AS AN ACTION TO RECOVER SUCH JUDGMENT 29 ATE PURSUANT TO SUBDIVISION (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF 30 THE YORK CITY CIVIL COURT ACT, SUBDIVISION (B) OF SECTION EIGHTEEN 31 NEW 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 (B) OF SECTION EIGHTEEN HUNDRED ELEVEN OF THE UNIFORM JUSTICE COURT ACT. 34 S 6. This act shall take effect immediately. 35